

FERTILIZER SALES

Title 4 BUSINESS AND SPECIAL LICENSES, REGULATIONS

DIVISION 1.

BUSINESS LICENSES AND REGULATIONS

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Chapter 1

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Sections:

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41.011 Certificate of Cubical Capacity.

Every person, firm or corporation engaged in the buying, selling, transporting or delivering, as agent or principal, of bulk fertilizer for hire or sale, within the County of San Bernardino shall first secure from the County Sealer of Weights and Measures a certificate as to the cubic-foot capacity of any vehicle, cart, wagon or other means of conveyance for hauling fertilizer.

Adopted Ordinance #969 (1961); Amended Ordinance #1007 (1962);

41.012 Construction of Transporting Vehicles.

Such vehicle, cart, wagon, or other means of conveyance, shall be constructed in the following manner:

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(a) All floor and side boards shall be securely permanently attached to such vehicle, cart, wagon, or other means of conveyance.

(b) On the front left hand corner of the bed of such vehicle, cart, wagon or other means of conveyance, there shall be permanently attached an iron or steel metal strip running from the bottom or floor to the top of the top side board or to the top of the top head board, which iron or steel metal strip shall be no less than one (1) inch in width and riveted to each and every separate board or cross piece making up the body of such truck, vehicle, cart, wagon or other means of conveyance and at the top of such iron or steel metal strip there shall be a hole not less than one-fourth ($\frac{1}{4}$) inch in diameter running through said iron or steel metal strip, and also through the side board or head board or panel to which said iron or steel metal strip is attached, which hole shall be for the purpose of convenience of the County Sealer or Weights and Measures in attaching a seal upon the granting of a certificate, as hereinafter provided.

(c) On each side of the body of said vehicle, cart, wagon, or other means of conveyance, commencing two (2) inches from the top of said body there shall be painted in printing, with a durable paint, in white letters not less than four (4) inches in height, the letters: "Cap. Cu. Ft." and following said letters there shall be also printed in white numerals not less than four (4) inches in height, and not less than one-half ($\frac{1}{2}$) inch in width of stroke the cubic-foot capacity to the nearest unit as determined by the County Sealer of Weights and Measures, which shall conform to the certificate hereinafter provided.

(d) In the event the top side board is not in place or use, then the side board in use at the time which is at the top shall be marked and subject to Subsection (b) and (c) hereof.

Adopted Ordinance #969 (1961); Amended Ordinance #1007 (1962);

41.013 Application for Certificate of Cubical Capacity.

Before any certificate of cubical capacity of vehicle shall be issued by the County Sealer or Weights and Measures to any person, firm or corporation hereinabove provided, an application shall be made therefor to said County Sealer of Weights and Measures in writing which application shall provide:

(a) The name and residence address of applicant.

(b) The registered and legal owner of said vehicle, cart, wagon, or other means of transportation.

(c) The place of business of said applicant.

(d) Whether such vehicle, cart, wagon or other means of conveyance is used exclusively in buying, selling, transporting or delivering of fertilizer, and if not, for what other commodities it is proposed to be used.

Thereupon, the County Sealer of Weights and Measures shall make his measurements of the body and capacity of said vehicle, cart, wagon or other means of conveyance, and shall also inspect said body as to its permanent construction before issuance of such certificate, and shall compute the capacity load by cubic feet, and shall permanently seal said body at the place provided for, as herein specified, and shall thereupon issue to said applicant his certificate, which certificate shall designate the name, the residence and business addresses of the person to whom such certificate shall have been issued; the exact measurements of the body of such vehicle, cart, wagon, or other means of conveyance, and the computation of the cubic feet to within

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the nearest unit when fully loaded, which certificate shall conform in cubic feet to the figure placed on the body thereof by said County Sealer of Weights and Measures.

Adopted Ordinance #969 (1961); Amended Ordinance #1007 (1962);

41.014 Violations.

It shall be unlawful for any person, firm or corporation to buy, sell, transport, or deliver, or otherwise engage in the dealing in bulk fertilizer, and use in connection therewith, a vehicle, cart, wagon, or other means of conveyance, without first having applied for and secured a certificate as to its capacity, as herein provided, or use such vehicle, cart, wagon or other means of conveyance, in the buying, selling, transporting, or delivering of such fertilizer without having attached to the body thereof a seal by the County Sealer of Weights and Measures specifying the capacity load, or to use such vehicle, cart, wagon, or other means of conveyance in such manner without having printed on the sides thereof the words: "Capacity," or the letters: "Cap. Cu. Ft." and also the actual full cubic-foot capacity in the manner and form as hereinabove provided, or to use said vehicle, cart, wagon, or other means of conveyance in the buying, selling, transporting, or delivering of bulk fertilizer without the certificate of the County Sealer of Weights and Measures permanently attached to the inside of the cab thereof, in a conspicuous place.

Adopted Ordinance #969 (1961); Amended Ordinance #1007 (1962);

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Chapter 2

JUNK AND SECONDHAND DEALERS

Sections:

- 41.021 Definitions and License Requirements.
 - (a) Junk Dealer.
 - (b) Pawnbroker.
 - (c) Salvage Collector.
 - (d) Secondhand dealer.
- 41.022 Daily Reports.
- 41.023 Inspection.
- 41.024 Property.
- 41.025 Licenses.
 - (a) Renewals.
 - (b) License Not Transferable.
 - (c) Application for License, Contents and investigation.
 - (d) Issuance of License.
 - (e) Temporary Permits.
 - (f) Display of License.
 - (g) Suspension or Revocation of License.
 - (h) Disciplinary Action Grounds.
 - (i) Suspension or Revocation Without Hearing.
 - (i) Procedure.
 - (k) Pending Revocation or Suspension Proceedings -- Effect on Permittee.
- 41.026 Purchase Report Forms.
- 41.027 Cost and Inspection of Purchase Report Forms.
- 41.028 Correct Name and Address Required.
- 41.029 Penalty.

41.021 Definitions and License Requirements.

- (a) JUNK DEALER.
 - (1) Junk Dealer means any person having a fixed place of business and conducting, managing or maintaining any place where secondhand and used machinery and scrap metals, including automobiles, tools, implements, or parts or portions thereof, are gathered together, stored, purchased or kept for shipment, sale or transfer.
 - (2) Every junk dealer shall be licensed and pay an annual license fee of:
 - (A) \$165.00 for the first year; and
 - (B) \$55.00 for each annual renewal,
- (b) PAWNBROKER.
 - (1) Pawnbroker means any person engaged in any one or more of the following businesses:
 - (A) Pawnbroking;
 - (B) Lending money for himself or any other person on personal property, pawns, or pledges in the possession of the lender;
 - (C) Purchasing articles of personal property and reselling or agreeing to resell such articles to the vendors or assignees at prices agreed upon at or before the time of such purchase.

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(2) Every pawnbroker shall obtain a license and pay an annual license fee of:

- (A) \$165 for the first year; and
- (B) \$55 for each annual renewal.

(c) **SALVAGE COLLECTOR.**

(1) "Salvage collector" means a person not having a fixed place of business who goes from house to house or place to place gathering, collecting, buying, selling, or otherwise dealing in secondhand and used machinery and scrap metals including automobiles, tools, implements, or parts or portions thereof, or other articles commonly known as salvage.

(2) Every salvage collector shall be licensed and pay all annual license fee of:

- (A) \$15 for the first year; and
- (B) \$5 for each renewal.

(d) **SECONDHAND DEALER.**

(1) "Secondhand dealer" means any person, copartnership, firm or corporation whose principal business is that of engaging in buying, selling, trading, accepting for sale or consignment, accepting for auctioning, or auctioning secondhand personal property.

(2) Every secondhand dealer shall obtain a license and shall pay an annual license fee of:

- (A) \$50 for the first year; and
- (B) \$25 for each annual renewal.

Amended Ordinance #689 (1952); Amended Ordinance #1329 (1966);
Amended Ordinance #1343 (1967); Amended Ordinance # 1355 (1967);
Amended Ordinance #1522 (1969)

41.022 Daily Reports.

Junk dealers, pawnbrokers, and secondhand dealers under this chapter shall report to the Sheriff of San Bernardino County at the office of the Sheriff, Courthouse, San Bernardino, California, every day before twelve o'clock noon, on a blank form, all personal property that is required to be reported by this chapter.

The specific information to be set out on the purchase form is as follows:

1. Dealer's name, business, address and telephone number;
2. Date of purchase;
3. Seller's name, description, residence address, vehicle license number, driver's license or County business license number;
4. Material category descriptions;
5. Weight of material, amount paid, and time of payment;
6. Description and identification number of automobile and automobile bodies. Such information may be provided by submission of a vehicle report completed by the seller of any automobile or automobile body. The vehicle report forms will be made available by the Sheriff.

Junk dealers shall make a complete report of information set out on the purchase form and wherever possible include the driver's license number of the seller or sellers, and the motor vehicle license number of automobile driven by said seller or sellers.

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Junk dealers shall include a general description where the scrap or junk is comprised of such things as castings, wire, tubing, pipe or such items which may be commonly described.

Junk dealers shall report on purchase forms all nonferrous materials and shall report the following ferrous materials: fence material, pipe, chain, machinery parts, new foundry castings, cable, automobiles, and automobile bodies.

Any transactions totaling five dollars (\$5) or less need not be reported, except automobile or automobile bodies, which may be reported in accordance with item 6., above. It shall not be necessary to report any automobile or automobile bodies purchased from auto dismantlers licensed by the State of California.

Pawnbrokers and secondhand dealers shall make their reports in compliance with the provisions of Business and Professions Code, Section 21500 et seq., of the State of California.

Salvage collectors shall maintain purchase records.

The records required by this section shall be retained for a period of three (3) years and shall be available for inspection upon demand of any law enforcement officer.

The reports shall be written in the English language in a clear and legible manner.

Amended Ordinance #689 (1952); Amended Ordinance #1329 (1966);
Amended Ordinance #1343 (1967); Amended Ordinance # 1355 (1967);

41.023 Inspection.

Every junk dealer, pawnbroker and secondhand dealer shall hold and keep exposed any property acquired by them in the course of their business for inspection on their business premises during business hours.

Amended Ordinance #689 (1952); Amended Ordinance #1329 (1966);
Amended Ordinance #1343 (1967); Amended Ordinance # 1355 (1967);

41.024 Property.

Junk dealers shall hold all personal property received as received except automobile bodies until the expiration of three (3) days after the submission of the report required by this chapter.

Amended Ordinance #689 (1952); Amended Ordinance #1329 (1966);
Amended Ordinance #1343 (1967); Amended Ordinance # 1355 (1967);

41.025 Licenses.

(a) RENEWALS. Upon expiration of any license issued pursuant to this chapter, the holder thereof shall upon the payment of the required license fee, be entitled to a new license for the ensuing year without making a new application therefor, provided the required license fee is paid before the expiration of the license.

(b) LICENSE NOT TRANSFERABLE. Each license issued hereunder shall be issued to a specific person and shall in no event be transferable from one person to another.

(c) APPLICATION FOR LICENSE, CONTENTS AND INVESTIGATION. Application for licenses under this chapter shall be made in writing and filed with the Clerk of the Board of Supervisors. Each application shall be accompanied by a ten dollar (\$10) fee. Said fee shall be credited as part of the first annual license fee. The application shall contain the name of the applicant, the person's interest in the business, his business

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address, or if the applicant is an itinerant dealer, his residence address. The application shall be immediately referred to the Planning Department, the Building and Safety Department, and to the Sheriff for investigation concerning the applicant's business and character of the applicant. The Planning Department, Building and Safety Department, and the Sheriff shall make reports of their findings, together with a recommendation as to whether or not the applicant shall be granted a license, to the Board of Supervisors within ten (10) days after the application was referred to them.

(d) **ISSUANCE OF LICENSE.** The Board of Supervisors shall, upon receiving an application and reports of the Planning Department, Building and Safety Department, and the Sheriff, either approve or disapprove the issuance of such license.

(e) **TEMPORARY PERMITS.** Any applicant for a business license under this chapter may be issued a temporary permit for a period of one (1) year commencing January 19, 1967. During the year such application shall be investigated by the Planning and Building and Safety Departments. Where any violation of County ordinances or pertinent State laws is determined, such violation shall be corrected within the one (1) year period. In the event corrections are not so made within the one (1) year period, the temporary permit shall terminate.

(f) **DISPLAY OF LICENSE.** Every pawnbroker, junk dealer and secondhand dealer shall display the license issued by the County of San Bernardino in a conspicuous place in his business premises.

(g) **SUSPENSION OR REVOCATION OF LICENSE.** The Board may, upon its own motion or upon the verified complaint in writing of any person, investigate the actions of any permittee and may temporarily suspend for a period not exceeding one (1) year, or revoke the permit of any permittee who commits any one or more of the acts or omissions constituting grounds for disciplinary action under this chapter.

(h) **DISCIPLINARY ACTION GROUNDS.** It shall be a ground for disciplinary action if any permittee, his agent or employee or any person connected or associated with the permittee as partner, director, officer, stockholder, general manager, or person who is exercising managerial authority of or on behalf of the permittee has:

(1) Knowingly made any false, misleading or fraudulent statement of a material fact in an application for a permit, or in any report or record required to be filed with the Board; or

(2) Violated any provision of this chapter or of any statute relating to his permitted activity; or

(3) Been convicted of a felony or any crime involving theft, embezzlement or illegal turpitude; or

(4) Committed any act constituting dishonesty or fraud; or

(5) A bad moral character, intemperate habits or a bad reputation for truth, honesty or integrity; or

(6) Committed any unlawful, false, fraudulent, deceptive or dangerous act while conducting a permitted business; or

(7) Published, uttered or disseminated any false, deceptive or misleading statements or advertisements in connection with the operation of a permitted business; or

(8) Violated any rule or regulation adopted by the Board relating to the permittee's business; or

(9) Willfully failed to comply with the terms of any contract made as a part of the exercise of the permitted business; or

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(10) Conducted the permitted business in a manner contrary to the peace, health, safety, and general welfare or the public; or

(11) Demonstrated that he is unfit to be trusted with the privileges granted by such permit; or

(12) Failed to comply with zoning regulations of San Bernardino County.

(i) **SUSPENSION OR REVOCATION WITHOUT HEARING. CONVICTION.** If any person holding a permit under this chapter is convicted in any court of the violation of any law relative to his permit, the Board may revoke the permit forthwith without any further action thereon other than giving notice of revocation to the permittee.

(j) **PROCEDURE.** The licensee may, within ten (10) days after service upon him of a written notice of suspension or revocation of his license, file a request for a hearing with the Board. The request for hearing shall be in writing and signed by or on behalf of the applicant. It need not be verified or follow any particular form. Failure to file such a request for a hearing shall constitute a waiver of the licensee's right to a hearing.

(k) **PENDING REVOCATION OR SUSPENSION PROCEEDINGS EFFECT ON PERMITTEE.**

(1) Continuing business. Pending the final determination of a proceeding for revocation or suspension of a permit, a permittee may continue to engage in the business for the period of his permit or until the Board makes such final determination.

(2) Renewal Application. A permittee may file an application for renewal of a permit pursuant to Subsection (h) accompanied by the required fee during the pendency of a proceeding to suspend or revoke his permit. Such filing shall continue such permit in full force and effect until the entry of the final order by the Board terminating the proceedings. Failure of the Board to revoke, suspend, limit or condition the permit shall have the effect of granting the permit. The application for renewal shall become a part of the pending proceeding and be subject to all evidence which has been or is thereafter presented. No further notice to the applicant is required and the Board or Hearing Examiner is authorized to consider and make findings upon such application in accordance with this chapter.

Amended Ordinance #689 (1952); Amended Ordinance #1329 (1966);
Amended Ordinance #1343 (1967); Amended Ordinance # 1355 (1967);

41.026 Purchase Report Forms.

The Sheriff of the County of San Bernardino, in conjunction with the Purchasing Agent of the County of San Bernardino, shall immediately upon the adoption and publication of the ordinance codified in this chapter, cause such number of Sheriff's Purchase Report Forms to be printed, as may be necessary for pawnbrokers, junk dealers and secondhand dealers to report the transactions required by this chapter.

Amended Ordinance #689 (1952); Amended Ordinance #1329 (1966);
Amended Ordinance #1343 (1967); Amended Ordinance # 1355 (1967);

41.027 Cost and Inspection of Purchase Report Forms.

The Sheriff of the County of San Bernardino shall cause the blanks referred to in Section 41.026 to be printed in books and shall furnish the books to any junk dealer or secondhand dealer upon payment of the sum specified in Section 16.0226 of Chapter 2 of Title 1, Division 6 of the San Bernardino County Code. Upon the receipt of the report from any of the persons from whom the reports are required, the Sheriff shall file the same in his office and the same shall be open to inspection only to any peace officer

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and to the District Attorney, Deputy District Attorney or investigator from the office of the District Attorney, or upon the order of a duly authorized court for such purpose.

Amended Ordinance #689 (1952); Amended Ordinance #1329 (1966);
Amended Ordinance #1343 (1967); Amended Ordinance # 1355 (1967);
Amended Ordinance #2924 (1985);

41.028 Correct Name and Address Required.

(a) Every pawnbroker, junk dealer and secondhand dealer, their agents and employees, shall cause the person or persons by whom property is left in pledge, stored, deposited, or from whom purchased, to sign his true name and give his correct address in each Sheriff's purchase report.

(b) It shall be unlawful for any person or persons to sign a fictitious name or fictitious address in connection therewith.

Amended Ordinance #689 (1952); Amended Ordinance #1329 (1966);
Amended Ordinance #1343 (1967); Amended Ordinance # 1355 (1967);

41.029 Penalty.

Any person violating any provision of this chapter shall be guilty of a misdemeanor and subject to a fine of not more than five hundred dollars (\$500) or imprisonment in the County Jail for not more than six (6) months, or both such fine and imprisonment.

Amended Ordinance #689 (1952); Amended Ordinance #1329 (1966);
Amended Ordinance #1343 (1967); Amended Ordinance # 1355 (1967);

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Chapter 3

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Sections:

- 41.031 Definitions.
- 41.032 Permit.
- 41.033 Permit Application; Fee.
- 41.034 Verification of Application, Investigation and Hearing Required.
- 41.035 Findings of Board of Supervisors; Issuance of Permit.
- 41.036 Fee Regulations; Expiration Date of Permits.
- 41.037 Renewal of Permits.
- 41.038 Application for Revision of Permit.
- 41.039 Public Nuisance.
- 41.0310 Veterinarian Inspection.
- 41.0311 Exemptions to Application of This Chapter.
- 41.0312 Prohibited Areas to Establishment of Hog Ranches.
- 41.0313 Intent Of Chapter.
- 41.0314 Persons Excluded from Obtaining a License as Described in Section 41.0312.
- 41.0315 Violation.
- 41.0316 Penalty.

41.031 Definitions.

For the purpose of this chapter, the following words and phrases are defined and shall be construed as having the following meaning:

(a) GARBAGE. The word "garbage" shall mean all animal or vegetable refuse or residue from kitchens, canneries, bakeries, restaurants, lunch stands, distilleries, wineries, meat, fish, fruit or vegetable markets, and other food handling places, and all household waste or residue that shall result from the preparation or care for, or treatment of, food stuffs intended to be used as food, or shall have resulted from the preparation or handling of food for human consumption, or any decayed or unsound meat, fish, fruit or vegetables.

(b) COMMERCIAL HOG RANCH. The term "commercial hog ranch" shall mean any premises where more than three hundred (300) head of swine are maintained, raised, fed or fattened, or where more than two (2) head of swine are maintained, raised, fed or fattened on garbage.

Adopted Ordinance #457 (1937); Amended Ordinance #661 (1950); Amended #678 (1951); Amended Ordinance #732 (1954); Amended Ordinance #978 (1962); Amended Ordinance #1522 (1969);

41.032 Permit.

It shall be unlawful for any person, firm or corporation to engage in, conduct, manage or carry on a commercial hog ranch, without first having procured the permits required under this chapter.

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Adopted Ordinance #457 (1937); Amended Ordinance #661 (1950); Amended #678 (1951); Amended Ordinance #732 (1954); Amended Ordinance #978 (1962); Amended Ordinance #1522 (1969);

41.033 Permit Application: Fee.

Any person, firm or corporation desiring or proposing to engage in the commercial hog ranch business shall make written application to the Board of Supervisors of San Bernardino County for a permit so to do. Each application fee shall be fifty dollars (\$50) for hog ranches of four hundred (400) head or less and seventy-five dollars (\$75) for hog ranches having more than four hundred (400) head; provided, however, that no permit shall be granted for a commercial hog ranch for maintaining, raising, feeding or fattening more than seven hundred and fifty (750) head of swine on garbage within the area hereinafter described in Section 41.0312, except existing commercial hog ranches exceeding that figure. Each application shall be accompanied by an affidavit of the owner or principal officer of the property showing:

- (a) The name and address of the owner of the property;
- (b) The acreage of the property;
- (c) The location of the property as recorded in the office or the County Recorder;
- (d) The name and address of the proposed operator or operators of the commercial hog ranch, and if a corporation, the names and addresses of the directors thereof.

Each application shall also be accompanied by an affidavit of the operator of the commercial hog ranch, which affidavit shall set forth:

- (a) The approximate maximum number of swine to be maintained, raised, fed or fattened on said ranch;
- (b) The type of feed to be used;
- (c) The source or sources and estimated quantity of garbage and offal to be fed daily, if such feed is to be used;
- (d) Designation of the specific portion of the premises which will be used in the operation of the commercial hog ranch;
- (e) That the specific portions of the premises described therein, which are to be used for the operation of the commercial hog ranch, are not within two (2) miles of any public school, public park, the boundaries of any municipality in San Bernardino County or within one-half (1/2) mile of any occupied dwelling house not on said premises; or within seven hundred and fifty (750) feet of any public highway, unless an exception is granted by the Board upon proper application in cases of unusual hardship.

Adopted Ordinance #457 (1937); Amended Ordinance #661 (1950); Amended #678 (1951); Amended Ordinance #732 (1954); Amended Ordinance #978 (1962); Amended Ordinance #1522 (1969);

41.034 Verification of Application, Investigation and Hearing Required.

Upon receipt of any application for the maintenance and operation of a commercial hog ranch and the two affidavits required by this chapter, the Board of Supervisors shall cause said application, together with the two accompanying affidavits, to be referred immediately to the County Health Department. The applicant shall forthwith upon the request of the County Health Department, if he has not previously done so, furnish to the said Health Department a plot plan drawn to scale of the premises proposed to be occupied by said commercial hog ranch, showing the location or the proposed location, the nature and construction character of all buildings,

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structures, pens, food containers, feeding devices, fences and other information required by the said Department. The County Health Officer shall visit and inspect the site of the proposed commercial hog ranch. The soil character and the final movements and drainage of any effluents or waste from within the area shall be determined. If the County Health Officer is satisfied that the maintenance and operation of a commercial hog ranch as proposed in said application, affidavits and plot plan would not be a menace to public health, safety and general welfare, or animal health, or constitute a potential nuisance in the neighborhood, or constitute a potential water pollution problem, he shall, by written report to the Board of Supervisors, recommend that a permit be granted, while if he is not so satisfied he shall recommend to the Board of Supervisors that a permit not be granted.

Upon receipt of the County Health Officer's report and recommendation, the Board shall then set a date for a public hearing thereon, which date shall not be less than fifteen (15) days from the receipt of the report, and not less than ten (10) days prior to the date of said hearing the Board shall cause notice of said hearing to be given in the community or district in which such commercial hog ranch is proposed by causing to be published not less than one (1) publication stating all essential facts regarding the application and the date of hearing in a newspaper of general circulation in the community or district in which the proposed commercial hog ranch is to be located, and posting not less than two (2) signs headed by the words "Proposed Commercial Hog Ranch" in letters not less than two (2) inches in height along or upon and visible from the State or County highway nearest the premises to which the application refers, specifying the location of the proposed commercial hog ranch and the date of hearing upon the permit application.

Adopted Ordinance #457 (1937); Amended Ordinance #661 (1950); Amended #678 (1951); Amended Ordinance #732 (1954); Amended Ordinance #978 (1962); Amended Ordinance #1522 (1969);

41.035 Findings of Board of Supervisors; Issuance of Permit.

Upon the date set for hearing or the date to which said hearing may have been continued, the Board of Supervisors, after having afforded to all persons interested an opportunity to be heard, shall review all findings and evidence in the matter and if said Board of Supervisors is then satisfied that the maintenance of a commercial hog ranch as proposed in said application would not be a menace to public health, safety and the general welfare, or animal health, or be a potential nuisance in the neighborhood, or constitute a potential water pollution problem, said Board may, in the case of a commercial *hog* ranch where garbage is *not* to be fed, issue a *permit* which may be revocable for cause; and in the case of a commercial hog ranch where garbage is to be fed, the Board of Supervisors may issue a construction permit for a period of sixty (60) days, pending the installation of feeding and other equipment. When equipment shall have been installed within said sixty (60) day period such fact shall be transmitted in writing to the County Health Officer, who shall cause an inspection to be made of said equipment and a general re-inspection of the premises. If such inspection shows that satisfactory equipment conditions exist, the Health Officer shall so report in writing to the Board of Supervisors and said Board shall then issue a permit, which shall be revocable for cause. Violation of any provision of this chapter or the operation of a licensed premise in such a manner as to constitute a nuisance, shall be and constitute sufficient cause for the revocation of any permit issued hereunder. All permits shall

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specify the maximum number of swine to be allowed thereunder. A permit granted under this chapter shall not be transferable.

Special pasturing permits for pasturing hogs or swine on premises not included in any commercial hog ranch, may be granted by the Board of Supervisors for a period of not to exceed six (6) months, during any calendar year, provided no garbage shall be fed to such swine while being so pastured. The application for such permit shall be filed with the Board of Supervisors showing the name and address of the owner of the swine to be pastured; the owner of the property upon which said swine are to be pastured; the number of swine; and the location and acreage to be pastured. The fee for issuing a special pasturing permit shall be one dollar (\$1).

Adopted Ordinance #457 (1937); Amended Ordinance #661 (1950); Amended #678 (1951); Amended Ordinance #732 (1954); Amended Ordinance #978 (1962); Amended Ordinance #1522 (1969);

41.036 Fee Regulations; Expiration Date of Permits.

The fees herein provided for and which must accompany the application shall be and constitute the annual fee for the permit applied for and shall not be pro-rated or refunded except in the single instance where an application for a permit is not granted. All permits issued under and by virtue of the provisions of this chapter shall expire on the thirtieth day of December of each year.

Adopted Ordinance #457 (1937); Amended Ordinance #661 (1950); Amended #678 (1951); Amended Ordinance #732 (1954); Amended Ordinance #978 (1962); Amended Ordinance #1522 (1969);

41.037 Renewal of Permits.

Upon the expiration of any permit on the 30th day of December of each year, the permittee may apply for a renewal thereof. Such application for renewal shall set forth that the applicant is applying for a permit upon the same premises set forth in the original application and shall designate the maximum number of hogs to be maintained on the land at any one time during the ensuing permit year.

Upon the filing of such application for renewal accompanied by the fee as provided for in Section 41.033 hereof, the County Clerk shall refer the application to the County Health Officer for his recommendation. The County Health Officer shall make his recommendation as to whether or not the continued operation of such ranch would be a menace or potential menace to public health, safety and general welfare of the neighborhood.

Upon receipt of a favorable recommendation from the County Health Officer, the County Clerk shall forthwith issue a renewal of the annual permit to the applicant. Upon receipt of an unfavorable report from the County Health Officer, the Board of Supervisors shall set the matter for hearing within thirty (30) days from the receipt of the report of the County Health Officer and the matter of the renewal of such permit shall be determined by the Board of Supervisors. The minutes of the Board of Supervisors shall constitute the notice of said hearing.

Adopted Ordinance #457 (1937); Amended Ordinance #661 (1950); Amended #678 (1951); Amended Ordinance #732 (1954); Amended Ordinance #978 (1962); Amended Ordinance #1522 (1969);

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41.038 Application for Revision of Permit.

An application for a change in the permit during the permit year to increase the number of hogs to be maintained on such commercial hog ranch to a number in excess of that which had been granted may be made by a permittee, such application to be accompanied by the fee payable for the permit year for the number of hogs in excess of the amount which had been granted, according to the schedule as set forth in Section 41.033 herein. Upon receipt of an application to increase the number of hogs to be maintained by the applicant on the premises, such permit may be granted in the same manner and way as is provided for in the granting or denial of renewals of permits in Section 41.037 hereof.

Adopted Ordinance #457 (1937); Amended Ordinance #661 (1950); Amended #678 (1951); Amended Ordinance #732 (1954); Amended Ordinance #978 (1962); Amended Ordinance #1522 (1969);

41.039 Public Nuisance.

Any buildings or structures erected, set up, built, moved or maintained and any use of land or property established or maintained contrary to the provisions of this chapter shall be and the same is hereby declared to be a public nuisance. Nothing herein contained shall grant or be construed to grant a license or permit to maintain a public nuisance or a private nuisance.

Adopted Ordinance #457 (1937); Amended Ordinance #661 (1950); Amended #678 (1951); Amended Ordinance #732 (1954); Amended Ordinance #978 (1962); Amended Ordinance #1522 (1969);

41.0310 Veterinarian Inspection.

Any and all commercial hog ranches existing and operating within the County of San Bernardino under and pursuant to the provisions of this chapter shall be subject to inspection at any and all reasonable times by the County Public Health Veterinarian. Said Veterinarian shall file with the Board of Supervisors a written report on each commercial hog ranch in the County of San Bernardino. Said report shall be filed quarterly, that is, during the months of January, April, July and October of each calendar year, on standard forms approved by the Board of Supervisors.

Adopted Ordinance #457 (1937); Amended Ordinance #661 (1950); Amended #678 (1951); Amended Ordinance #732 (1954); Amended Ordinance #978 (1962); Amended Ordinance #1522 (1969);

41.0311 Exemptions to Application of This Chapter.

The provisions of Section 41.032 of this chapter stating distances from any public school, public park, municipal corporation, occupied dwelling house, public highway, within which distances a commercial hog ranch shall not be maintained or operated, shall not apply to commercial hog ranches in existence in the County of San Bernardino prior to the effective date of this chapter.

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Adopted Ordinance #457 (1937); Amended Ordinance #661 (1950); Amended #678 (1951); Amended Ordinance #732 (1954); Amended Ordinance #978 (1962); Amended Ordinance #1522 (1969);

41.0312 Prohibited Areas to Establishment of Hog Ranches.

Three (3) years after the effective date of this chapter, no commercial hog ranch shall keep, maintain, feed or fatten more than seven hundred and fifty (750) garbage fed hogs within the following area:

Beginning at the intersection of the County boundary line between Los Angeles and San Bernardino Counties with the north line of Section 31, T4N, P, 7W, S.B.B.&M.; thence east to the northeast corner of said Section 31; thence south to the northwest corner of the south 1/2 of Section 32, same township and range; thence east to the northeast corner of the south 1/2 of said Section 32; thence south to the southwest corner of Section 33, same township and range; thence east along township lines to the northeast corner of Section 6, T3N, R3W; thence south along section lines to the southeast corner of Section 7, same township and range; thence east along section lines to the northeast corner of Section 13, same township and range; thence north along the range line to the northwest corner of Section 18, T3N, R2W; thence east along section lines to the southwest corner of Section 9, same township and range; thence north to the northwest corner of said Section 9; thence east along section lines to the northeast corner of Section 12, T3N, R2W; thence south along the range line to the northwest corner of Section 7, T3N, R1W; thence east along section lines to the northeast corner of Section 10; thence east along section lines to the northeast corner of Section 17, T3N, R2L S.B.B.&M.; thence south to the southeast corner of said Section 17; thence east to the northeast corner of Section 21, same township and range; thence south to the southeast corner of said Section 21; thence east along section lines to the northeast corner of Section 26, same township and range; thence south to the southeast corner of said Section 26; thence east to the northeast corner of Section 36, same township and range; thence south along the range line to the southeast corner of aforesaid T3N, R2E; thence east along the township line to the northeast corner of Section 5, T2N, R3E; thence south to the southeast corner of said Section 5; thence east to the northeast corner of Section 9, same township and range; thence south along section lines to the northwest corner of Section 27, same township and range; thence east to the northeast corner of said Section 27; thence south along the section lines to the southeast corner of Section 10, T1N, R3E; thence west along section lines to the southwest corner of Section 9, same township and range; thence south along section lines to the southeast corner of Section 20, same township and range; thence west to the southwest corner of Section 20; thence south to the southeast corner of Section 30, same township and range; thence west to the southwest corner of said Section 30; thence South along the range line to the southwest corner of aforesaid T1N, R3E; thence west along the township line to the northeast corner of T1S, R2E; thence south along the range line to the southeast corner of said township, and being on the County boundary line between Riverside and San Bernardino Counties; thence following the boundary line between Riverside and San Bernardino Counties and the boundary line between Orange and San Bernardino Counties, and the boundary line between Los Angeles and San Bernardino Counties to the intersection of said boundary line between Los Angeles and San Bernardino Counties with the north line of Section 31, T4N, R7W, the point of beginning, excepting therefrom a portion of said area described as follows: Beginning at the northwest corner of Section 12, T2S, R7W,

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S.B.B.&M., County of San Bernardino, State of California, said corner being at the intersection of Riverside Drive and Haven Avenue; thence southerly along the west line of Section 12 and of Section 13, same township and range, being also along Haven Avenue, to the southwest corner of the north 1/2 of said Section 13, said corner being at the intersection of Haven Avenue and Edison Avenue; thence easterly along the south line of the north 1/2 of said Section 13 to the southeast corner thereof; thence northerly along the range line between Ranges 7 and 6 West, being also along Adams Street to the northeast corner of said Section 12; thence westerly along the north line of said Section 12, being also along Riverside Drive, to the point of beginning. Within the excepted area no more than seven hundred and fifty (750) brooder sows shall be maintained at any one time.

Adopted Ordinance #457 (1937); Amended Ordinance #661 (1950); Amended #678 (1951); Amended Ordinance #732 (1954); Amended Ordinance #978 (1962); Amended Ordinance #1522 (1969);

41.0313 Intent of Chapter.

Nothing contained in this chapter shall be deemed to repeal, modify or affect any of the provisions of this Code.

Adopted Ordinance #457 (1937); Amended Ordinance #661 (1950); Amended #678 (1951); Amended Ordinance #732 (1954); Amended Ordinance #978 (1962); Amended Ordinance #1522 (1969);

41.0314 Persons Excluded from Obtaining a License as Described in Section 41.0312.

No permit shall be granted for a commercial hog ranch at a location not previously licensed under this chapter, within the area described in Section 41.0312 of this chapter.

Adopted Ordinance #457 (1937); Amended Ordinance #661 (1950); Amended #678 (1951); Amended Ordinance #732 (1954); Amended Ordinance #978 (1962); Amended Ordinance #1522 (1969);

41.0315 Violation.

The failure of any person, firm or corporation to cease the use of land or property, or to remove any buildings or structures which are maintained and used in violation of the terms of this chapter within twenty (20) days after service of notice upon him by registered mail addressed to the address of the owner or operator as listed in the application, of a written demand from the Board of Supervisors of San Bernardino County to cease such use of land or property and to remove such buildings or structures, shall be deemed a violation of this chapter, and each day during which he or they or it shall fail to remove said buildings or structures or cease to use said premises for any purpose herein prohibited after the expiration of twenty (20) days from the service of said demand shall constitute a separate offense.

Adopted Ordinance #457 (1937); Amended Ordinance #661 (1950); Amended #678 (1951); Amended Ordinance #732 (1954); Amended Ordinance #978 (1962); Amended Ordinance #1522 (1969);

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41.0316 Penalty.

Any person, firm or corporation violating any provision of this chapter shall be guilty of a misdemeanor, and upon conviction thereof shall be punishable by fine of not more than five hundred dollars (\$500) or by imprisonment in the County Jail for a term not exceeding six (6) months, or both such fine and imprisonment. Such person, firm or corporation shall be deemed guilty of a separate offense for each and every day during any portion of which any violation of this chapter is committed, constituted or permitted by such person, firm or corporation and shall be punishable as herein provided.

Adopted Ordinance #457 (1937); Amended Ordinance #661 (1950); Amended #678 (1951); Amended Ordinance #732 (1954); Amended Ordinance #978 (1962); Amended Ordinance #1522 (1969);

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Chapter 4

PRIVATE PATROL LICENSE

Section:

- 41.041 Definitions.
- 41.042 License Required.
- 41.043 Registered Private Patrolman.
- 41.044 Licenses.
 - (a) Application.
 - (b) Duration and Transferability.
 - (c) Renewals.
 - (d) Fees.
- 41.045 Suspension or Revocation of License.
- 41.046 Disciplinary Action - Grounds.
- 41.047 Procedure.
- 41.048 Pending Revocation or Suspension, Hearings - Effect on Licensee.
 - (a) Continuing Business.
 - (b) Renewal - Application.
- 41.049 Fictitious Name.
- 41.0410 Exceptions to the Application of This Chapter.
- 41.0411 Information to be Furnished to Sheriffs Office.
- 41.0412 Distinguishing Insignia.
 - (a) Availability of Official Insignia for Inspection.
 - (b) Purpose to Preserve Distinctiveness of Official Insignia.
 - (c) Private Patrolman Patch Insignia Requirement.
- 41.0413 Promulgation of Rules and Regulations.
- 41.0414 Persons Excluded from Obtaining a License.
- 41.0415 Arms and Equipment.
- 41.0416 Conduct and Duty Performance.
 - (a) Trespass.
 - (b) Reporting Violations.
 - (c) Complaints.
 - (d) Customer List.

41.041 Definitions.

(a) "Board," as used in this chapter, shall mean the San Bernardino County Board of Supervisors.

(b) "County," as used in this chapter, shall mean the County of San Bernardino.

(c) "Person," as used in this chapter, shall mean and include individuals, partnerships, corporations, and associations.

(d) "Private patrol service," as used in this chapter, shall mean any person, as hereinabove defined, who furnishes another person the service of patrolling private property within the unincorporated area of San Bernardino County, for any purpose whatsoever. Any exceptions to the above will be stated specifically in this chapter.

(e) "Private patrolman," as used in this chapter, shall mean any person who not only is employed by or is an agent of a private patrol service, but who also performs the service hereinabove defined in paragraph (d) of this section. Each member of a

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copartnership licensed hereinunder to conduct a private patrol service shall be deemed to be a private patrolman.

(f) "Sheriff," as used in this chapter, shall mean the Sheriff of the County of San Bernardino.

Adopted Ordinance #683 (1951); Amended Ordinance #892 (1959); Amended Ordinance #1007 (1962); Amended Ordinance #1137 (1964); Amended Ordinance #1176 (1964); Amended Ordinance #1522 (1969); Amended Ordinance #2039 (1975);

41.042 License Required.

It shall be unlawful for any person to maintain a private patrol service in the unincorporated area of the County unless a license therefor has been secured in the manner provided for in this chapter.

Adopted Ordinance #683 (1951); Amended Ordinance #892 (1959); Amended Ordinance #1007 (1962); Amended Ordinance #1137 (1964); Amended Ordinance #1176 (1964); Amended Ordinance #1522 (1969); Amended Ordinance #2039 (1975);

41.043 Registered Private Patrolman.

It shall be unlawful for any private patrol service to employ or have associated with it in the conduct of its business any private patrolman who is not currently registered pursuant to subdivision (f) of Section 7514 of the California Business and Professions Code.

Adopted Ordinance #683 (1951); Amended Ordinance #892 (1959); Amended Ordinance #1007 (1962); Amended Ordinance #1137 (1964); Amended Ordinance #1176 (1964); Amended Ordinance #1522 (1969); Amended Ordinance #2039 (1975);

41.044 Licenses.

(a) APPLICATION. Application for private patrol license shall be made in writing and filed with the Clerk of the Board. Each application shall be accompanied by a \$25 fee. Said fee shall be credited as part of the first annual license fee.

Each applicant shall prove to the satisfaction of the Clerk of the Board that he possesses a valid license under the Private Investigator and Adjuster Act of the State of California and has in force the bond required by that Act. The application shall require the following information:

- (1) The full name and business address of the applicant;
- (2) The name under which the applicant intends to do business;
- (3) A statement as to the general matter of the business in which the applicant intends to engage;
- (4) If the applicant is a partnership, the full name and residence of each of its partners. If the applicant is a corporation, the full names and residences of its president, vice- president, secretary, treasurer, and its manager;
- (5) Two (2) recent photographs of the applicant. Two (2) classifiable sets of his fingerprints;
- (6) A verified statement of his experience qualifications.

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(b) DURATION AND TRANSFERABILITY. All licenses issued pursuant to the provisions of this chapter shall be for a term of one (1) year from the date of issuance thereof, and shall not be transferable.

(c) RENEWALS. Upon expiration of any license issued pursuant to this chapter, the holder thereof shall upon the payment of the required license fee be entitled to a new license for the ensuing year without making a new application therefor, provided the required license fee is paid before the expiration of the license.

(d) FEES. License and modification of license fees shall be as set forth in Section 16.025 of the County Code.

Adopted Ordinance #683 (1951); Amended Ordinance #892 (1959); Amended Ordinance #1007 (1962); Amended Ordinance #1137 (1964); Amended Ordinance #1176 (1964); Amended Ordinance #1522 (1969); Amended Ordinance #2039 (1975);

41.045 Suspension or Revocation of License.

The Board may, upon its own motion or upon the verified complaint in writing of any person, investigate the actions of any licensee and may temporarily suspend for a period not exceeding one (1) year or revoke the license of any licensee who commits any one or more of the acts or omissions constituting grounds for disciplinary action under this chapter.

If said suspension or revocation is appealed pursuant to Section 41.047, the suspension or revocation shall take effect in accordance with the provisions of Section 41.048.

Adopted Ordinance #683 (1951); Amended Ordinance #892 (1959); Amended Ordinance #1007 (1962); Amended Ordinance #1137 (1964); Amended Ordinance #1176 (1964); Amended Ordinance #1522 (1969); Amended Ordinance #2039 (1975);

41.046 Disciplinary Action - Grounds.

It shall be a ground for denial, suspension, revocation, or other disciplinary action if any applicant, licensee, his agent, or employee, or any person connected or associated with the applicant or licensee as partner, director, officer, stockholder, general manager, or person who is exercising managerial authority, or on behalf of the licensee, has:

(a) Knowingly made any false, misleading, or fraudulent misstatement of a fact in an application for a license; or

(b) Violated any provision of this chapter or any statute relating to his permitted activity, or illegally used, carried or possessed a dangerous weapon; or

(c) Been convicted of a felony or any crime involving moral turpitude; or

(d) Committed any unlawful, fraudulent or dangerous act while conducting the permitted business; or

(e) Violated any rule or regulation adopted by the Board relating to the licensee's business; or

(f) Conducted the permitted business in a manner contrary to the peace, health, safety, or general welfare of the public; or

(g) Impersonated, or permitted, aided or abetted an employee to impersonate a law enforcement officer or any employee of the United States or any State or political subdivision thereof; or

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(h) Committed or permitted any employee to commit any act while the license was expired which would be cause for the suspension or revocation of a license or grounds for a denial of an application for a license; or

(i) Willfully failed or refused to render to a client services or to report as agreed between the parties and for which compensation has been paid or tendered in accordance with the agreement of the parties; or

(j) Committed assault, battery or kidnapping or used force without proper justification; or

(k) knowingly violated, or advised, encouraged or assisted the violation of any court order or injunction in the course of the business as a licensee; or

(l) Committed a violation of Section 148 of the Penal Code.

Adopted Ordinance #683 (1951); Amended Ordinance #892 (1959); Amended Ordinance #1007 (1962); Amended Ordinance #1137 (1964); Amended Ordinance #1176 (1964); Amended Ordinance #1522 (1969); Amended Ordinance #2039 (1975);

41.047 Procedure.

An applicant or licensee may, within ten (10) days of service upon him of a written notice of denial of license or suspension or revocation of his license under Section 41.045, file a request for hearing to appeal the suspension, revocation or denial with the Board. The request for hearing shall be in writing and filed by or on behalf of the applicant or licensee. It need not be verified or follow any particular form. Failure to file such a request for hearing shall constitute a waiver of the applicant's or licensee's right to a hearing.

Adopted Ordinance #683 (1951); Amended Ordinance #892 (1959); Amended Ordinance #1007 (1962); Amended Ordinance #1137 (1964); Amended Ordinance #1176 (1964); Amended Ordinance #1522 (1969); Amended Ordinance #2039 (1975);

41.048 Pending Revocation or Suspension, Hearings - Effect on Licensee.

(a) CONTINUING BUSINESS. Upon appeal of a suspension or revocation, pursuant to Section 41.045, pending the final determination of such appeal, a licensee may continue to engage in the business for the period of his license or until the Board makes such final determination.

(b) RENEWAL - APPLICATION. A licensee may file an application for a renewal of a license pursuant to Section 41.044(c) accompanied by the required fee during the pendency of a proceeding to suspend or revoke his license. Such filing shall continue such license in full force and effect until the entry of the final order of the Board terminating the proceedings. Failure of the Board to revoke, suspend, limit or condition the license shall have the effect of granting said renewal. The application for renewal shall become a part of the pending proceeding and be subject to all evidence which has been or has thereafter been presented. No further notice to the applicant is required and the Board or hearing examiner is authorized to consider and make findings upon such application in accordance with this chapter.

Adopted Ordinance #683 (1951); Amended Ordinance #892 (1959); Amended Ordinance #1007 (1962); Amended Ordinance #1137 (1964); Amended

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Ordinance #1176 (1964); Amended Ordinance #1522 (1969); Amended Ordinance #2039 (1975);

41.049 Fictitious Name.

It shall be unlawful for any person or persons to sign a fictitious name or fictitious address in connection with the application for a license or in connection with operating the business.

Adopted Ordinance #683 (1951); Amended Ordinance #892 (1959); Amended Ordinance #1007 (1962); Amended Ordinance #1137 (1964); Amended Ordinance #1176 (1964); Amended Ordinance #1522 (1969); Amended Ordinance #2039 (1975);

41.0410 Exceptions to the Application of this Chapter.

The licensing provisions of this chapter shall not apply to:

(a) A person performing any of the services listed in Section 41.041(d) hereof for a single owner whose property is not open to the public, provided that such person's entire compensation for a customary day's work for that owner is paid for by that owner or a patrol service providing guard service performed on private property where the public is not admitted and does not include mobile services using marked vehicles on public streets.

(b) Qualified members of the Sheriff's Office of the County who are performing services under a contract entered into by the Sheriff's Office and who are being compensated for such service by the County.

(c) Qualified members of any legally constituted law enforcement agency of a political subdivision, while engaged in an activity required to be done in carrying out the lawful duties of that agency, and for which service said member will receive compensation from said political subdivision.

(d) Qualified members of the San Bernardino County Sheriff's Reserve while such members are engaged in the lawful services provided for such Reserves, upon order of the Sheriff.

Adopted Ordinance #683 (1951); Amended Ordinance #892 (1959); Amended Ordinance #1007 (1962); Amended Ordinance #1137 (1964); Amended Ordinance #1176 (1964); Amended Ordinance #1522 (1969); Amended Ordinance #2039 (1975);

41.0411 Information to be Furnished to Sheriff's Office.

Each licensed private patrol service shall maintain *records* with the following information, and furnish them to the Sheriff's Office upon request:

(a) The address of each parcel of property patrolled;

(b) The name of the owner or client requesting patrol service for said parcel;

(c) The home or business address and telephone number of each said owner or client as furnished to the private patrol service for use in an emergency;

(d) A schedule showing the frequency and the time at which various areas were patrolled;

(e) A list, with descriptions and license numbers, of all vehicles owned or used by the patrol service.

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Failure to maintain said information on file and to comply with the requirements to furnish information shall be cause for the Board to suspend the private patrol service license in the manner provided for in Section 41.045 of this chapter.

Adopted Ordinance #683 (1951); Amended Ordinance #892 (1959); Amended Ordinance #1007 (1962); Amended Ordinance #1137 (1964); Amended Ordinance #1176 (1964); Amended Ordinance #1522 (1969); Amended Ordinance #2039 (1975);

41.0412 Distinguishing Insignia.

(a) AVAILABILITY OF OFFICIAL INSIGNIA FOR INSPECTION. There is available for public inspection at all reasonable office hours, at the office of the Sheriff in the Courthouse at San Bernardino, California, the official badge, the official distinguishing shoulder "patches," the official collar insignia and the official hat insignia, which are prescribed by the Sheriff as being regulation insignia and attire for qualified members of the Sheriff's Office of the County of San Bernardino. These bear, among other distinguishing features, the words "County of San Bernardino," and they are hereby referred to, and by this reference are deemed to be described as fully as though more completely pictured herein.

(b) PURPOSE TO PRESERVE DISTINCTIVENESS OF OFFICIAL INSIGNIA. By this provision, the Board declares it is its intention to preserve the distinctiveness and the distinguishing features of the badge, the shoulder patch, and the accompanying collar and hat insignia which have been prescribed by said Sheriff as official for qualified members of the Sheriff's Office and its Reserve, to the end that the public will not be subjected to confusion or deceit by persons who may seek to give the false impression that they are such officers, when they are not, in fact, so qualified and appointed.

(c) PRIVATE PATROLMAN PATCH INSIGNIA REQUIREMENT. Any badge or cap insignia worn by a person who is a licensee, officer, director, partner, employee, or private patrolman of a licensee shall be of a design approved by the Director of Consumer Affairs for the State of California and shall bear on its face a distinctive word indicating the name of the licensee and an employee number by which such person may be identified by the licensee. Every licensed private patrolman shall, while furnishing the service described in Section 41.041 hereof, or while enroute to or from any place for the furnishing of such service, wear upon the right breast part of his outer garment a rectangular patch insignia not less than four and one-fourth (4-1/4) inches long and one (1) inch high, bearing the words "Private Patrol" in legible letters at least one-half (1/2) inch high. Said identification may be either a cloth patch or a plastic pin.

(d) A private patrolman or private patrol licensee vehicle may bear an insignia or other markings denoting private patrol services. These insignias or markings will be limited to the following:

If an insignia is used, it must not be in the form of a star or other similar shape. The name of the private patrol company must be plainly worded on the insignia. In addition, either across the face or below the insignia and in equal view, a rectangular sign must be placed with the words "Private Patrol" in contrasting color to the background and with letter size equal to or larger than the largest letter on the insignia.

A rectangular sign, without separate insignia, may be used. The words "Private Patrol" must be included in any wording, be of contrasting color to the background and to any other words used on the sign and must be equal to or larger than the largest letters on the rectangular sign.

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Adopted Ordinance #683 (1951); Amended Ordinance #892 (1959); Amended Ordinance #1007 (1962); Amended Ordinance #1137 (1964); Amended Ordinance #1176 (1964); Amended Ordinance #1522 (1969); Amended Ordinance #2039 (1975);

41.0413 Promulgation of Rules and Regulations.

The Board may promulgate rules and regulations by resolution duly adopted, not inconsistent with this chapter, relating to private patrol services and private patrolmen.

Adopted Ordinance #683 (1951); Amended Ordinance #892 (1959); Amended Ordinance #1007 (1962); Amended Ordinance #1137 (1964); Amended Ordinance #1176 (1964); Amended Ordinance #1522 (1969); Amended Ordinance #2039 (1975);

41.0414 Persons Excluded from Obtaining a License.

No license shall be issued to a corporation unless it shall have complied with Section 122 of the Corporation Code, with respect to its filing of a certificate to do business in the County nor to a copartnership or individual operating under a fictitious firm name, until compliance has been had with Section 17910 of the Business and Professions Code to the identity of such firm.

Adopted Ordinance #683 (1951); Amended Ordinance #892 (1959); Amended Ordinance #1007 (1962); Amended Ordinance #1137 (1964); Amended Ordinance #1176 (1964); Amended Ordinance #1522 (1969); Amended Ordinance #2039 (1975);

41.0415 Arms and Equipment.

The only arms and equipment authorized by the County for private patrolmen or private patrol licensees on duty are side arms with open holsters, night sticks no longer than twenty- four (24) inches in length, handcuffs and flashlight.

Individual patrolmen and private patrol licensees may be authorized shotguns while on duty only upon satisfactory completion of training in their use, as approved by the Sheriff.

Adopted Ordinance #683 (1951); Amended Ordinance #892 (1959); Amended Ordinance #1007 (1962); Amended Ordinance #1137 (1964); Amended Ordinance #1176 (1964); Amended Ordinance #1522 (1969); Amended Ordinance #2039 (1975);

41.0416 Conduct and Duty Performance.

(a) TRESPASS. An operator, partner, agent or patrolman shall not, either by himself or through the action of another, harass, annoy, or commit a nuisance against, or injure the property of, or unnecessarily enter or otherwise trespass upon the property of, any person whose property the patrol service is not employed to protect.

(b) REPORTING VIOLATIONS. Upon receiving a report of any violation of any State law or County Code, any operator, partner, agent or patrolman shall not perform official police or investigation activities, but shall immediately report every violation of the law

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and every unlawful occurrence to the nearest Sheriffs Office or Deputy Sheriff's patrol car. A full report of such violation shall be made to the Sheriff without delay.

(c) COMPLAINTS. All complaints regarding the activities of operators, partners, agents or patrolmen shall be investigated by the Sheriff. Reports of such complaints shall be held in the Sheriffs Office.

(d) CUSTOMER LIST. Each patrol service shall keep a list of all customers and the patrolman who is assigned to guard the premises of such customers each day of the year. These lists must be kept on file for three (3) years.

Adopted Ordinance #683 (1951); Amended Ordinance #892 (1959); Amended Ordinance #1007 (1962); Amended Ordinance #1137 (1964); Amended Ordinance #1176 (1964); Amended Ordinance #1522 (1969); Amended Ordinance #2039 (1975);

PEDDLING AND SOLICITING AND HAWKING

Chapter 5

PEDDLING AND SOLICITING AND HAWKING

Sections:

- 41.051 Definitions.
- 41.052 License Required and Enforcement Penalty.
- 41.053 Application for License and Application Fee.
- 41.054 Sheriff and EHS Recommendations; Issuance of License, License Limitations.
- 41.055 Payment of License Fees.
- 41.056 Fixed Place of Business Exemption.
- 41.057 Farm Product Exemption.
- 41.058 Veterans' Exemption to Payment of License Fee.
- 41.059 Tax Exempt Organizations Exemption to Payment of License Fee.
- 41.0510 Enforcement
- 41.0511 Revocation of License.
- 41.0512 Validity.

41.051 Definitions.

For purposes of this chapter, the following terms, phrases, words and their derivations shall have the meanings set forth herein. Words used in the present tense include the future tense, plural words include the singular and singular words include the plural. Words not specifically defined shall be given their common and ordinary meaning. The word "shall" is mandatory and not merely directory.

(a) "Board of Supervisors" means the Board of Supervisors for the County of San Bernardino.

(b) "Code Enforcement" means the Land Use Services Department, Code Enforcement Division of the County of San Bernardino.

(c) "Clerk of the Board" means the Clerk of the Board of Supervisors.

(d) "EHS" means the Department of Public Health, Division of Environmental Health Services of the County of San Bernardino.

(e) "Fixed Place of Business" means any location where goods, wares, merchandise or services are offered to the public on a regular and continuous basis or where goods or merchandise are regularly stored and/or maintained on the premises, provided such fixed place of business has operated for a period of at least sixty (60) days prior to the time peddling or soliciting is done, and provided the operation of such business is not in violation of any applicable zoning, building, public health or business license laws.

(f) "Handicapped" means any person who:

(1) Has a physical and/or mental impairment(s) which substantially limits one or more of the person's major life activities;

(2) Has a record of such impairment; or

(3) Is regarded as having such an impairment.

(g) "Hawking" means the offering of merchandise on or adjacent to the streets by outcry or by attracting the attention of persons by exposing goods in a public place or by placards, labels, or signals.

(h) "Peddling" means the selling of merchandise which is transported from place to place in the course of approaching prospective customers or selling merchandise or services from door to door.

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(i) "Sheriff" means the Sheriff of the County of San Bernardino and/or any deputy or representative appointed by him or her.

(j) "Soliciting" means asking or inviting persons to pay money in return for merchandise or services to be delivered in the future or asking for a charitable donation.

(k) "Tax Exempt Organizations" means any organization qualifying for tax-exempt status under Sections 23701a, 23701b, 23701d, 23701e, 23701f, 23701g or 23701l of the California Revenue and Taxation Code.

Adopted Ordinance #378 (1933); Amended Ordinance #1007 (1962); Amended Ordinance #1823 (1973); Amended Ordinance #2415 (1980); Amended Ordinance #3385 (1990); Amended Ordinance #3526 (1992); Amended #3730 (1998);

41.052 License Required and Enforcement Penalty.

(a) Hawking Prohibited. Except as set forth in San Bernardino County Code section 41.058 (farm product exemption), and except as part of those licensed activities specified in San Bernardino County Code sections 84.0745 et seq. (Temporary Use Permits), 42.011 et seq. (carnivals), and 42.041 et seq. (swap meets), it shall be unlawful for any person to engage in the business of hawking goods, wares, merchandise, fruits and vegetables or prepared foods within the unincorporated area of the County of San Bernardino.

(b) Peddling or Soliciting License Required. Except as provided in Sections 41.056 and 41.057, it shall be unlawful for any person to engage in the business of peddling goods, wares, merchandise, fruits and vegetables or prepared foods; or of soliciting orders for goods or services; or of offering services for repair or improvement of real property; or of soliciting donations for charity in an open public place or door to door within the unincorporated area of the County of San Bernardino without first having secured a peddling or soliciting license.

(c) Licenses shall be issued for a one-year period. Upon expiration of the license, the former licensee may apply for a new license in the same manner as a new applicant except that if the licensee applies for a new license before the old license expires, the old license shall remain in force until the Board of Supervisors either approves or denies the application for the new license. Upon obtaining a license issued pursuant to this Section, the licensee shall keep the information submitted on the application current by immediately notifying the Sheriff's Office, the County Code Enforcement Division, and if additionally required to have a food permit, the Division of Environmental Health Services in writing of any change or occurrence which affects or changes the status of the licensee.

Adopted Ordinance #378 (1933); Amended Ordinance #1007 (1962); Amended Ordinance #1823 (1973); Amended Ordinance #2415 (1980); Amended Ordinance #3385 (1990); Amended Ordinance #3730 (1998);

41.053 Application for License and Application Fee.

(a) License Application. The applicant for any peddling or soliciting license shall provide to the Clerk of the Board, on a form prepared by the Clerk of the Board, the following information:

(1) The name, address, and telephone number of the applicant;

(2) The name, address, and telephone number of each person designated by the

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applicant to peddle or solicit under the applicant's license;

(3) The place and date of any conviction within the past five (5) years for a crime of moral turpitude, criminal battery, fraud, burglary or theft of the applicant and, if applicant is a corporation, the corporation's officers, directors and majority stockholders and each person designated by the applicant to peddle or solicit under his or her license;

(4) Such fingerprints and/or other documents which reasonably relate to licensing under this chapter as may be required by the Sheriff of the applicant and, if applicant is a corporation, the corporation's officers, directors and majority stockholders and each person designated by the applicant to peddle or solicit under his or her license;

(5) A copy of the State of California Sales Tax Permit (California Revenue and Taxation Code Section 6066) for the applicant's activities attached to the application;

(6) A description of every type of merchandise or service that the applicant proposes to peddle or solicit;

(7) If applicable, a description of the type, manufacturer and supplier of any goods to be sold;

(8) A designation of the location or locations at which place(s) the applicant proposes to peddle or solicit and the date(s) and time(s) of same;

(9) If applicant is claiming a license fee exemption for a tax exempt organization, the application shall be accompanied by a copy of the determination of the tax exempt status issued by the Franchise Tax Board of the State of California showing the applicant is exempt under Sections 23701a, 23701b, 23701d, 23701e, 23701f, 23701g, or 23701i of the California Revenue and Taxation Code.

(b) License Application Fee. The application fee set forth in the San Bernardino County Code Schedule of Fees, not including cost of fingerprinting, shall accompany all written applications for licenses issued under this chapter. The payment shall be accepted only in cash, certified check or money order.

Adopted Ordinance #378 (1933); Amended Ordinance #1007 (1962); Amended Ordinance #1823 (1973); Amended Ordinance #2415 (1980); Amended Ordinance #3385 (1990); Amended Ordinance #3526 (1992); Amended Ordinance #3730 (1998);

41.054 Sheriff and EHS Recommendations; Issuance of License, License Limitations.

(a) Investigation by Sheriff and EHS. Upon the filing of the application required by Section 41.053, together with the application fee, the Clerk of the Board shall transmit one (1) copy to the appropriate Sheriff's substation, and where required for issuance of a food permit, one (1) copy to the appropriate EHS office. The applicant shall cooperate with the Sheriff and EHS in conducting their investigation and shall if requested provide the Sheriff or EHS other documents or materials which may be requested which reasonably relate to the course of the Department's investigation. The Sheriff and if required EHS shall report to the Clerk of the Board in writing recommending approval or denial of the license and stating the reasons therefor.

(b) Issuance of Licenses. The Board of Supervisors shall not order the issuance of the license unless all of the following requirements are met:

(1) The applicant has submitted a correct and complete application form both as to the applicant and, if applicant is a corporation, the corporation's officers, directors and majority stockholders and each person designated by the applicant to peddle or solicit

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under his or her license;

(2) The applicant has provided fingerprints of the applicant, and if applicant is a corporation, the corporation's officers, directors, majority stockholders and each person designated by the applicant to peddle or solicit under his or her license;

(3) The applicant has paid the application fee and fingerprinting fee to the Clerk of the Board and to the Sheriff;

(4) There is no known cloud upon the title to or ownership of the goods to be sold by the applicant under the license;

(5) Neither the applicant nor, if applicant is a corporation, the corporation's officers, directors and majority stockholders and each person designated by the applicant to peddle or solicit under his or her license has within the past five (5) years been convicted of a crime of moral turpitude, criminal battery, fraud, burglary, or theft;

(6) The time(s) and place(s) of the proposed license activities is in accordance with regulations set forth in this chapter;

(7) If required, the applicant has applied for and received a food permit from EHS.

Adopted Ordinance #378 (1933); Amended Ordinance #1007 (1962); Amended Ordinance #1823 (1973); Amended Ordinance #2415 (1980); Amended Ordinance #3385 (1990); Amended Ordinance #3526 (1992); Amended Ordinance #3730 (1998);

41.055 Payment of License Fees.

Any person required by this chapter to have a license shall, upon approval of said license by the Board of Supervisors, pay a license fee in the sum set forth in the San Bernardino County Code Schedule of Fees to the San Bernardino County Tax Collector and shall pay to the Tax Collector said license fee annually thereafter on or before the anniversary date of the Board's approval.

Adopted Ordinance #378 (1933); Amended Ordinance #1007 (1962); Amended Ordinance #1823 (1973); Amended Ordinance #2415 (1980); Amended Ordinance #3385 (1990); Amended Ordinance #3730 (1998);

41.056 Fixed Place of Business Exemption.

Any person having a fixed place of business within the County of San Bernardino shall not be required to obtain a peddling or soliciting license.

Adopted Ordinance #378 (1933); Amended Ordinance #1007 (1962); Amended Ordinance #1823 (1973); Amended Ordinance #2415 (1980); Amended Ordinance #3385 (1990); Amended Ordinance #3730 (1998);

41.057 Farm Product Exemption.

No peddling or soliciting license shall be required of any farmers selling farm products produced by them nor for the seasonal sales of Christmas trees or Halloween pumpkins.

Adopted Ordinance #378 (1933); Amended Ordinance #1007 (1962); Amended Ordinance #1823 (1973); Amended Ordinance #2415 (1980); Amended Ordinance #3385 (1990); Amended Ordinance #3730 (1998);

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41.058 Veterans' Exemption to Payment of License Fee.

No license fee shall be required for the issuance of a license to any person who was honorably discharged or honorably relieved from United States military service. A license for such a person shall be required under the provisions of this chapter, as in other cases, but no license fee shall be charged. Application and fingerprinting fees shall be required for licenses issued under this section. The exemption within this section shall not apply when the merchandise involved includes spirituous, malt, vinous, or other intoxicating liquor.

Adopted Ordinance #378 (1933); Amended Ordinance #1007 (1962); Amended Ordinance #1823 (1973); Amended Ordinance #2415 (1980); Amended Ordinance #3385 (1990); Amended Ordinance #3730 (1998);

41.059 Tax Exempt Organization Exemption to Payment of License Fee.

Whenever any person intends to peddle or solicit goods, wares, services or merchandise for the purpose of raising funds or soliciting donations for a tax-exempt organization, said applicant may apply to the Board of Supervisors for a license to be issued without payment of the license fee. If satisfied that the funds will be used for the purposes mentioned herein, the Board shall order the issuance of a license for said peddling or solicitation for a term fixed by the Board. Payment of application and fingerprinting fees shall be required for a license issued under this section. The exemption within this section shall not apply when the merchandise involved includes spirituous, malt, vinous, or other intoxicating liquor.

Adopted Ordinance #378 (1933); Amended Ordinance #1007 (1962); Amended Ordinance #1823 (1973); Amended Ordinance #2415 (1980); Amended Ordinance #3385 (1990); Amended Ordinance #3730 (1998);

41.0510 Enforcement.

The provisions of the chapter shall be enforced by officers and authorized representatives of the San Bernardino County Sheriff's Department or by officers and authorized representatives of County Code Enforcement, in accordance with Sections 11.021 et seq. (Violations and Citations) of Chapter 2 of Title 1 of the San Bernardino County Code. Copies of all licenses, once issued, shall be provided by the Clerk of the Board of Supervisors to the Sheriff, Code Enforcement and, if appropriate, to EHS.

A license issued pursuant to this chapter will authorize the licensee to peddle or solicit in the locations and during the time designated in his or her application, but only when the peddling and hawking does not interfere with the free flow of vehicle traffic or does not obstruct pedestrian traffic. There shall be no peddling or hawking until the license is issued. Licensees shall comply with all applicable state laws, including California Business and Professions Code Section 17510 et seq. and Health and Safety laws.

Adopted Ordinance #378 (1933); Amended Ordinance #1007 (1962); Amended Ordinance #1823 (1973); Amended Ordinance #2415 (1980); Amended Ordinance #3385 (1990); Amended Ordinance #3730 (1998);

41.0511 Revocation of License.

Proceedings for revocation of any license issued under this chapter shall be

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pursuant to San Bernardino County Code Section 12.270 et seq. (Administrative Hearings). The hearing in any revocation proceeding shall be before the Board of Supervisors unless the Board, in its sole discretion, appoints a hearing officer to conduct the hearing. It shall be sufficient service of any notice provided for in Section 12.270 et seq. for the Clerk of the Board to mail the notice by first class mail, postage prepaid, to the licensee at the licensee's mailing address shown on the licensee's most recent application or otherwise filed by the licensee with the Clerk of the Board. Service may also be made by personal service on the licensee or by leaving the notice at the licensed premises or at the licensee's residence in the custody of a person over the age of eighteen (18) years of age or older. The decision of the Board of Supervisors in a revocation appeal shall be final.

A license issued under this chapter may be revoked upon one (1) or more of the following grounds:

- (a) That the holder practiced fraud or deceit in being licensed under this chapter;
- (b) That the holder or the holder's employee violated provisions of this chapter;
- (c) That the holder has been convicted in a court of competent jurisdiction of a crime involving moral turpitude, criminal battery, fraud, burglary or theft within the past five (5) years;
- (d) That the license was issued in error.

Adopted Ordinance #378 (1933); Amended Ordinance #1007 (1962); Amended Ordinance #1823 (1973); Amended Ordinance #2415 (1980); Amended Ordinance #3385 (1990); Amended Ordinance #3730 (1998);

41.0512 Validity.

If any section, subsection, clause or phrase of this chapter is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portion of this chapter.

Adopted Ordinance #378 (1933); Amended Ordinance #1007 (1962); Amended Ordinance #1823 (1973); Amended Ordinance #2415 (1980); Amended Ordinance #3385 (1990); Amended Ordinance #3730 (1998);

SOLICITING ON TRAINS

Chapter 6

SOLICITING MOTOR REPAIRS

Sections:

- 41.061 Prohibition of tile Business of Soliciting Motor Repairs.
- 41.052 Prohibition of Soliciting Motor Repairs.

41.061 Prohibition of the Business of Soliciting Motor Repairs.

It shall be unlawful for any person, firm or corporation to engage in the business of soliciting motor vehicle repair, towing or other service work, or offering to perform motor vehicle repair, towing or other service work, upon the public roads or highways within the County of San Bernardino, outside of municipal corporations, for which repair, towing or other service work a charge is to be made, or is made, or a sum of money paid.

Adopted Ordinance #381 (1933); Amended Ordinance #445 (1937); Amended Ordinance #1007 (1962); Amended 1112 (1963);

41.062 Prohibition of Soliciting Motor Repairs.

It shall be unlawful for any person to solicit motor vehicle repair, towing, or other service work, or offer to perform motor vehicle repair, towing or other service work, upon the public roads or highways within the County of San Bernardino, outside of municipal corporations, for which repair, towing or other service work a charge is to be made, or is made, or a sum of money paid.

Adopted Ordinance #381 (1933); Amended Ordinance #445 (1937); Amended Ordinance #1007 (1962); Amended 1112 (1963);

SOLICITING ON TRAINS

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SOLICITING ON TRAINS

41.071 Prohibition of Soliciting on Trains.

It is unlawful for any person to solicit patronage for or on behalf of any person, firm or corporation engaged in the business of transporting or transferring persons or property or baggage, or to solicit patronage for or on behalf of any hotel, lodging house, apartment house, cafe, restaurant or boarding house in or upon any railroad train or car within the limits of the County of San Bernardino, outside of incorporated cities, without the written consent of the owner of such railroad, train or car.

Adopted Ordinance #171 (1915); Amended Ordinance #1007 (1962);

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Chapter 8

POOL AND BILLIARD HALLS

Sections:

- 41.081 Definition of Person.
- 41.082 License Required.
- 41.083 License Fee; Application - Content.
- 41.083a Special Licensing Requirements.
- 41.084 Gambling Prohibited.
- 41.085 Serving of Alcoholic Beverages Prohibited.
- 41.086 Business Hours.
- 41.087 Exclusion of Persons Under 18 Years of Age.
- 41.088 Requirement That the Interior of the Premises be Visible From the Street.
- 41.089 Revocation of License; Hearing Required; Rules and Regulations.
- 41.0810 Exemptions.

41.081 Definition of Person.

As used in this chapter, "person" shall mean any person, company, firm, corporation, copartnership, group or association of persons.

Adopted Ordinance #592 (1947); Amended Ordinance #1007 (1962); Amended Ordinance #1097 (1963); Amended Ordinance #1117 (1963);

41.082 License Required.

It shall be unlawful for any person to engage in the business of operating or conducting a billiard hall or pool room in the County of San Bernardino, State of California, outside of municipal corporations, without first obtaining a license so to do, as in this chapter so provided.

Adopted Ordinance #592 (1947); Amended Ordinance #1007 (1962); Amended Ordinance #1097 (1963); Amended Ordinance #1117 (1963);

41.083 License Fee; Application_- Content.

The license fee for engaging in the business of operating or conducting a billiard hall or pool room shall be six dollars (\$6) per quarter, payable quarterly in advance on the first day of January, first day of April, first day of July, and the first day of October of each and every year. Any person desiring to obtain a license to operate or conduct the business of a billiard hall or a pool room in the said County of San Bernardino, State of California, and outside of municipal corporations shall make application for the license therefor in writing to the Tax Collector of the County of San Bernardino, stating in such application where it is intended to conduct or operate said business, describing the location thereof sufficiently for identification and the names of all owners of such business. Upon receiving such application and the payment to him of the amount of the license for the current quarter, the Tax Collector shall, after said application has been approved by the Board of Supervisors of said County, issue to said person a license to engage in the business of operating or conducting a billiard hall or pool room at the place so designated in said application. The Board of Supervisors may refuse to grant any such license, if, in the opinion of a majority of the Board, the establishing and

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maintaining of a billiard ball or pool room at the designated location would be contrary to the public welfare of the community wherein the applicant desires to establish and maintain such billiard hall or pool room.

Adopted Ordinance #592 (1947); Amended Ordinance #1007 (1962); Amended Ordinance #1097 (1963); Amended Ordinance #1117 (1963);

41.083a Special Licensing Requirements.

A licensee or applicant may apply for a special license which may be granted upon such conditions or restrictions as the Board may determine including age limits, business hours or conditions of premises. The Board shall consider a report of the Sheriff, factors of location, area per table, cleanliness, amount of lighting in the premises, visibility of interior from the street or other portion of premises if connected with other recreational activities, type of management of such establishment, provisions for spectators or non-playing guests. The Board may also promulgate regulations regarding such factors. Except as contained in the special license conditions or such regulations, the licensee shall be subject to the provisions of this chapter. If any license condition, regulation, or provision of this section or this chapter is violated, the special license may be revoked after a hearing before the Board. The fee for special license is sixty dollars (\$60) per year which shall include that fee specified in Section 41.083.

Adopted Ordinance #592 (1947); Amended Ordinance #1007 (1962); Amended Ordinance #1097 (1963); Amended Ordinance #1117 (1963);

41.084 Gambling Prohibited.

It shall be unlawful for any person engaging in the business of operating or conducting a billiard hall or pool room within the County of San Bernardino, State of California, outside of municipal corporations, to permit or allow any gambling, or to have, use, permit or allow any punch board or gambling device in or about said billiard hall or pool room.

Adopted Ordinance #592 (1947); Amended Ordinance #1007 (1962); Amended Ordinance #1097 (1963); Amended Ordinance #1117 (1963);

41.085 Serving of Alcoholic Beverages Prohibited.

It shall be unlawful for any person engaged in the business of operating or conducting a billiard ball or pool room to sell, furnish, give away or permit anyone in his employ or any other person to sell, furnish or give away any distilled spirits or wine as defined in the Alcoholic Beverage Control Act of the State of California, or to engage in the business of operating or conducting a billiard ball or pool room in any room or place in which distilled spirits or wine, as defined in said Alcoholic Beverage Control Act, are kept, stored, sold, furnished, consumed or given away.

Adopted Ordinance #592 (1947); Amended Ordinance #1007 (1962); Amended Ordinance #1097 (1963); Amended Ordinance #1117 (1963);

41.086 Business Hours.

It shall be unlawful for any person engaged in the business of operating or conducting a billiard hall or pool room within the County of San Bernardino, State of

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California, outside of municipal corporations to open, keep open or permit to be open or kept open, any such billiard hall or pool room between the hours of 12:00 midnight and 6:00 in the morning.

Adopted Ordinance #592 (1947); Amended Ordinance #1007 (1962); Amended Ordinance #1097 (1963); Amended Ordinance #1117 (1963);

41.087 Exclusion of Persons Under 18 Years of Age.

It shall be unlawful for any person engaged in the business of operating or conducting a billiard hall or pool room within the County of San Bernardino, State of California, outside of municipal corporations, or any employee or agent of such person, to permit or allow any person under the age of eighteen (18) years to be or remain in any such billiard hall or pool room.

Adopted Ordinance #592 (1947); Amended Ordinance #1007 (1962); Amended Ordinance #1097 (1963); Amended Ordinance #1117 (1963);

41.088 Requirement That the Interior of the Premises be Visible From the Street.

It shall be unlawful for any person to engage in the business of operating or conducting any billiard hall or pool room in any hall, room or place within the County of San Bernardino, State of California, outside of municipal corporations, unless such hall, room or place shall have at least one door or one window through which the public may at all times see the entire interior of any such hall, room or place during the day time, and where any light is therein at night time, and no obstruction of any kind whatever shall be permitted that will obstruct such view.

Adopted Ordinance #592 (1947); Amended Ordinance #1007 (1962); Amended Ordinance #1097 (1963); Amended Ordinance #1117 (1963);

41.089 Revocation of License; Hearing Required; Rules and Regulations

The Board of Supervisors may, as hereinafter in this chapter provided, revoke any license granted under the terms of this chapter, to-wit:

Said Board may revoke any such license upon the petition in writing of any citizen and resident of said County, where such petition is filed with said Board, setting forth that any of the terms and conditions of this chapter has been violated, and particularly setting forth wherein the same has been violated.

Said Board may revoke any such license upon the petition of any citizen and resident of said County, setting forth that such billiard hall or pool room is being conducted in a disorderly or disgraceful manner or in a manner detrimental to the public morals, or in any manner disturbing to the peace and quiet of the neighborhood in which such billiard hall or pool room is situated.

Said Board may revoke any such license upon a petition signed by a majority of the registered voters residing in the voting precinct in which any such billiard hall or pool room may be situated, setting forth that any such billiard hall or pool room is undesirable and is obnoxious to the people of the community in which the same is situated.

Upon presentation or any petition for the revocation of license, upon any of the grounds above mentioned, the Board shall set a date when such petition shall be heard by the Board, and shall cause ten (10) days personal notice to be served upon the

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holder of such license, notifying him to appear at the time and place so fixed for such hearing and show cause, if any he has, why such license should not be revoked. If the holder of the license shall at the time the notice is served be absent from the place where such billiard hall or pool room is conducted, a copy of the notice delivered to the person in charge of the billiard hall or pool room shall be sufficient notice to such license holder of the time and place where such petition is to be heard.

If at such hearing a majority of said Board of Supervisors is satisfied that any of the conditions of this chapter have been violated or that such billiard hall or pool room is being conducted or carried on in a disorderly or disgraceful manner or in a manner that is detrimental to public morals, or that the continued existence and operation of such billiard hall or pool room is obnoxious to a majority of the residents of the community in which the same is situated, or that the same is being conducted in a manner disturbing to the peace and quiet of the neighborhood in which the same is situated, such license shall be revoked, and no license shall thereafter for a period of one (1) year, be granted to the person whose license has been so revoked, nor shall any other person, during such a year, be granted a license to conduct or carry on a billiard hall or pool room in the same building in which the billiard hall or pool room was situated and for which license had been so revoked.

Adopted Ordinance #592 (1947); Amended Ordinance #1007 (1962); Amended Ordinance #1097 (1963); Amended Ordinance #1117 (1963);

41.0810 Exemptions.

This chapter shall not apply to any *bona fide* lodge, club, society, veterans' organization or similar group having one or more billiard tables or pool tables on their private premises solely for the amusement and entertainment of their members and guests, and where no fee is charged for the use of such billiard tables or pool tables and the use of such tables is not open to the public.

Adopted Ordinance #592 (1947); Amended Ordinance #1007 (1962); Amended Ordinance #1097 (1963); Amended Ordinance #1117 (1963);

Chapter 9 - Repealed by Ordinance 3726 (1998)

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Chapter 10

THEATERS

Sections:

- 41.101 Definition of Theater.
- 41.102 License Required.
- 41.103 Licenses.
- 41.104 Suspension or Revocation without Hearing - Conviction.
- 41.105 Suspension or Revocation of License With Prior Hearing.
- 41.106 Disciplinary Action - Grounds.
- 41.107 Procedure.
- 41.108 Pending Revocation or Suspension Hearings - Effect on Licensee.
- 41.109 Fictitious Name.
- 41.1010 Compliance with Building Codes and Zoning.
- 41.1011 Seating.
- 41.1012 Viewing Area.
- 41.1013 Alcoholic Beverage Prohibited.
- 41.1014 Exemptions.
- 41.1015 Validity.

41.101 Definition of Theater.

Any place, building, enclosure, or structure partially or entirely, temporarily or permanently used for dramatic or operatic presentations, acts, motion pictures, or any picture projected from slides, films, or video tape devices, vaudeville show, performances, or any place of public entertainment is determined to be a theater within the meaning of this chapter. Theaters specifically include, but are not limited to, places to which the public is permitted or invited wherein coin or slug operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors or other image producing devices are maintained, used or available to show images to one or a few persons at any one time.

Adopted Ordinance #1638 (1971); Amended Ordinance #1898 (1974); Amended Ordinance #3015 (1986);

41.102 License Required

It shall be unlawful for any person, firm, partnership, association or corporation to erect, maintain, or operate any theater as defined in Section 41.101 without first having applied for and received a license from the Board of Supervisors of the County of San Bernardino authorizing the same.

Adopted Ordinance #1638 (1971); Amended Ordinance #1898 (1974);

41.103 Licenses.

(a) APPLICATION FOR LICENSES, CONTENTS AND INVESTIGATION.

Application for licenses under this chapter shall be made in writing and filed with the Clerk of the Board of Supervisors. Each application shall be accompanied by a license fee specified in Section 16.025(a)(7) of the County Code. Said fee shall be credited as the first annual license fee. The application shall contain the name of the

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applicant, the person's interest in the business, his business address, and his residence address, if different from his business address. The application shall be immediately referred to the Planning, Building and Safety, Environmental Health Services Departments, the local fire authority and the Sheriff shall make reports of their findings together with a recommendation as to whether or not the applicant shall be granted a license to the Board of Supervisors within ten (10) days after the application was referred to them.

(b) ISSUANCE OF LICENSES.

The Board of Supervisors shall, upon receiving an application and reports of all the County Departments, the fire authority and the Sheriff, either approve or disapprove the issuance of such license. Grounds for disapproval are the same as those for suspension or revocation set forth in Section 41.106 of this chapter. Licenses shall be issued for a period of one year.

(c) LICENSE NOT TRANSFERABLE.

Each license issued hereunder shall be issued to a specific person and shall in no event be transferable from one person to another.

(d) RENEWALS.

Upon expiration of any license issued, pursuant to this chapter, the holder thereof shall, upon the payment of the required license fee, be entitled to a new license for the ensuing year without making a new application therefor provided the required license fee is paid before the expiration of the license.

(e) DISPLAY OF LICENSE.

Every license issued hereunder shall be displayed in a conspicuous place in the licensee's business premises.

Adopted Ordinance #1638 (1971); Amended Ordinance #1898 (1974);

41.104 Suspension or Revocation without Hearing - Conviction.

If any person holding a license under this chapter is convicted in any court of the violation of any law regulating any activity at the licensee's business premises, the Board of Supervisors may suspend or revoke said license forthwith without any further action thereon other than giving notice of revocation or suspension to the licensee.

Adopted Ordinance #1638 (1971); Amended Ordinance #1898 (1974);

41.105 Suspension or Revocation of License with Prior Hearing.

The Board of Supervisors may, upon its own motion or upon the verified complaint in writing of any person, investigate the actions of any licensee and may temporarily suspend for a period not exceeding one (1) year or revoke the license of any licensee who commits any one or more of the acts or omissions constituting grounds for disciplinary action under this chapter.

If said suspension or revocation is appealed pursuant to Section 41.107, the suspension or revocation shall take effect in accordance with the provisions of Section 41.108.

Adopted Ordinance #1638 (1971); Amended Ordinance #1898 (1974);

41.106 Disciplinary Action - Grounds.

It shall be a ground for denial, suspension, revocation, or other disciplinary action of any applicant, licensee, his agent, or employee, or any person connected or associated

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with the applicant or licensee as partner, director, officer, stockholder, general manager, or person who is exercising managerial authority, or on behalf of the licensee, has:

(a) Knowingly made any false, misleading, or fraudulent misstatement of a fact in an application for a license or in any statements made to County departments, the local fire authority, or the Sheriff investigating the application.

(b) Violated any provision of this chapter or any statute relating to his permitted activity, or

(c) Been convicted of a felony or any crime involving moral turpitude, or

(d) Committed any unlawful, fraudulent, or dangerous act while conducting the permitted business, or

(e) Violated any rule or regulation adopted by the Board of Supervisors relating to the licensee's business, or

(f) Conducted the permitted business in a manner contrary to the peace, health, safety, or general welfare of the public, or

(g) Failed to comply with zoning, building and safety regulations of San Bernardino County, County Environmental Health Services Department, or the local fire authority.

Adopted Ordinance #1638 (1971); Amended Ordinance #1898 (1974);

41.107 Procedure.

An applicant or licensee may, within ten (10) days of service upon him of a written notice of denial of license or suspension or revocation of his license under Sections 41.104 and 41.105, file a request for hearing to appeal the suspension, revocation or denial with the Board of Supervisors. The request for hearing shall be in writing and filed by or on behalf of the applicant or licensee. It need not be verified or follow any particular form. Failure to file such a request for hearing shall constitute a waiver of the applicant's or licensee's right to a hearing.

Adopted Ordinance #1638 (1971); Amended Ordinance #1898 (1974);

41.108 Pending Revocation or Suspension Hearings -- Effect on Licensee.

(a) CONTINUING BUSINESS. Upon appeal of a suspension or revocation, pursuant to Section 41.105, pending the final determination of such appeal, a licensee may continue to engage in the business for the period of this license or until the Board of Supervisors makes such final determination.

(b) RENEWAL -- APPLICATION. A licensee may file an application for a renewal of a license pursuant to Section 41.103(d) accompanied by the required fee during the pendency of a proceeding to suspend or revoke his license. Such filing shall continue such license in full force and effect until the entry of the final order of the Board terminating the proceedings. Failure of the Board to revoke, suspend, limit, or condition the license shall have the effect of granting said renewal. The application for renewal shall become a part of the pending proceeding and be subject to all evidence which has been part of the pending proceeding and be subject to all evidence which has been or has thereafter been presented. No further notice to the applicant is required and the Board or hearing examiner is authorized to consider and make findings upon such application in accordance with this chapter.

Adopted Ordinance #1638 (1971); Amended Ordinance #1898 (1974);

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41.109 Fictitious Name.

If shall be unlawful for any person or persons to sign a fictitious name or fictitious address in connection with the application for a license or in connection with operating the business.

Adopted Ordinance #1638 (1971); Amended Ordinance #1898 (1974);

41.1010 Compliance with Building Codes and Zoning.

The construction, seating arrangement, and use of a theater shall be in compliance with the Uniform Building Code, the Uniform Wiring Code, and the Uniform Mechanical and Plumbing Codes incorporated by reference into the County Code.

The operation of any theater must be in compliance with the zoning provisions in Title 8 of the County Code.

Adopted Ordinance #1638 (1971); Amended Ordinance #1898 (1974);

41.1011 Seating.

All seats shall be firmly affixed to the floor. All upholstery or covering shall be of fireproof material. Each customer shall be provided a seat during any performance or show.

Adopted Ordinance #1638 (1971); Amended Ordinance #1898 (1974);

41.1012 Viewing Area.

(a) It is unlawful to maintain, operate or manage or permit to be maintained, operated or managed any theater in which the viewing areas are not visible from a continuous main aisle or are obscured by a curtain, door, wall or other enclosure. For purposes of this section, viewing area means the area where a patron or customer is positioned while watching the performance, picture, show or film, and the internal configuration of each viewing area shall be such that the activities of the patron or customer viewing the performance, picture, show, or film are visible from the main aisle. For purposes of this section, obscured means covered at any point from the surface upon which a patron or customer's feet are placed to a point forty-eight inches (48") above that surface. Violation of this section shall constitute a misdemeanor, and shall be punishable by a fine of not more than five hundred dollars (\$500), by imprisonment for not more than six (6) months, or by both such fine and imprisonment.

(b) Any theater lawfully in existence prior to the adoption of or any amendment to this section shall conform to the provisions of this section within ninety (90) days of the effective date of this section.

Adopted Ordinance #1638 (1971); Amended Ordinance #1898 (1974); Amended Ordinance #3015 (1986); Amended Ordinance #3165 (1987);

41.1013 Alcoholic Beverages Prohibited.

It shall be unlawful for any person to sell, furnish, give away, or permit anyone to consume any alcoholic beverage in any theater. It shall also be unlawful for any person

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to possess, consume, or be under the influence of any alcoholic beverage while in any theater.

Adopted Ordinance #1638 (1971); Amended Ordinance #1898 (1974); Amended Ordinance #3015 (1986);

41.1014 Exemptions.

Any provision of this chapter may be waived by action of the Board of Supervisors as to any civic, educational, charitable or benevolent presentation, place, show, or entertainment.

Adopted Ordinance #1638 (1971); Amended Ordinance #1898 (1974); Amended Ordinance #3015 (1986);

41.1015 Validity.

If any section, subsection, sentence, clause or phrase of this chapter is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portion of this chapter.

Adopted Ordinance #1638 (1971); Amended Ordinance #1898 (1974); Amended Ordinance #3015 (1986);

Chapter 11 REPEALED BY ORDINANCE 3484 (1992)

Chapter 12 REPEALED BY ORDINANCE 3726 (1998)

ADULT-ORIENTED BUSINESS LICENSES

Chapter 13

ADULT-ORIENTED BUSINESS LICENSES

Sections:

- 41.131 Purpose and Intent.
- 41.132 Definitions.
- 41.133 License Required.
- 41.134 Issuance of License.
- 41.135 Fees.
- 41.136 Inspection.
- 41.137 Expiration of License.
- 41.138 Suspension.
- 41.139 Revocation.
- 41.1310 Appeal.
- 41.1311 Transfer of License.
- 41.1312 Location of Adult-Oriented Businesses.
- 41.1313 Injunction.
- 41.1314 Severability.

41.131 Purpose and Intent.

(a) It is the purpose of this chapter to regulate adult-oriented businesses to promote the health, safety, and general welfare of the citizens of the County of San Bernardino. The provisions of this chapter have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials.

Adopted Ordinance #3466 (1991);

41.132 Definitions.

(a) ADULT-ORIENTED BUSINESSES: An "Adult-Oriented Business":

(1) It is any business, where employees or patrons expose "specified anatomical areas" or engage in "specified sexual activities", or any business which offers to its patrons services or entertainment characterized by an emphasis on matter depicting, exposing, describing, discussing or relating to "specified sexual activities" or "specified anatomical areas."

Adult-oriented businesses do not include bona fide medical establishments operated by properly licensed and registered medical personnel with appropriate medical credentials for the treatment of patients.

In determining whether a use is an adult-oriented business, only conduct or activities which constitute a regular and substantial course of conduct shall be considered. Isolated instances of conduct or activities described in this section as characterizing an adult-oriented business shall not be considered except where such activities, taken together, constitute a regular and substantial course of conduct.

(2) shall include but shall not be limited to the following:

(A) ADULT BOOKSTORE. An "Adult Bookstore" is an establishment having, as a substantial portion of its stock-in-trade, and offering for sale for any form of consideration, any one or more of the following:

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(I) Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, slides or other visual representations which are characterized by an emphasis upon the depiction or description of "specified anatomical areas";

(II) Instruments, devices or paraphernalia which are designed for use in connection with "specified sexual activities"; or

(III) Goods which are replicas of or which simulate, "specified anatomical areas", or goods which are designed to be placed on or in "specified anatomical areas", or to be used in conjunction with "specified sexual activities", to cause sexual excitement.

(B) ADULT CABARET. An "Adult Cabaret" is a bar, nightclub or similar establishment which features dancers, strippers, or similar entertainers who expose "specified anatomical areas" of their bodies.

(C) ADULT THEATER. An "Adult Theater" is any place, building, enclosure or structure, partially or entirely used for live performances or presentations, motion pictures, or pictures or images projected or produced from slides, films, video or other media, including but not limited to coin operated or slug operated or electronically or mechanically controlled still or motion picture machines, projectors, video screens or other image-producing devices, which place, building, enclosure or structure is used for presenting matter characterized by an emphasis on depicting, exposing, describing or relating to "specified sexual activities" or "specified anatomical areas", for observation by patrons therein.

(D) SEXUAL NOVELTY STORE. A "Sexual Novelty Store" is an establishment having, as a substantial portion of its stock-in-trade, goods which are replicas of, or which simulate, "specified anatomical areas" or "specified sexual activities", or goods which are designed to be placed on or in "specified anatomical areas", or to be used in conjunction with "specified sexual activities", to cause sexual excitement.

(b) PERSON means and includes person(s), firms, corporations, partnerships, associations or any other forms of business organization or group.

(c) SPECIFIED ANATOMICAL AREAS shall include any of the following human anatomical areas:

(1) Less than completely and opaquely covered genitals, pubic regions, buttocks, anuses or female breasts below a point immediately above the top of the areolae; or

(2) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

(d) SPECIFIED SEXUAL ACTIVITIES include all the following:

(1) The fondling or other erotic touching of the following human anatomical areas: genitals, pubic regions, buttocks, anuses or female breasts;

(2) Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy;

(3) Masturbation, actual or simulated; or

(4) Excretory functions as part of or in connection with any of the activities set forth in (1) through (3), above.

Adopted Ordinance #3466 (1991);

41.133 License Required.

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(a) A person commits a misdemeanor if he or she operates an adult-oriented business within the unincorporated areas of the County of San Bernardino without a valid license issued by the County of San Bernardino for the particular type of business.

(b) An application for a license must be made on a form provided by the Clerk of the Board of Supervisors. The application must be accompanied by a sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared but must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises.

(c) A Conditional Use Permit, if required, must be obtained before a license application is accepted. The Conditional Use Permit application will be processed in accordance with the time limits of San Bernardino County Code § 83.030145.

(d) The applicant must be qualified according to the provisions of this chapter and the premises must be inspected and found to be in compliance with the law by the San Bernardino County Department of Environmental Health Services, appropriate fire department, the San Bernardino County Department of Building and Safety, and the San Bernardino County Planning Department.

(e) Any person who wishes to operate an adult-oriented business must sign the application for the license as the applicant.

(f) The fact that a person possesses any other valid license issued by the County of San Bernardino does not exempt the person from the requirement of obtaining an adult-oriented business license. A person who operates an adult-oriented business and possesses any other County license shall comply with the requirements and provisions of this chapter and all County Codes as well as the requirements and provisions of such other license.

Adopted Ordinance #3466 (1991);

41.134 Issuance of License.

(a) The Clerk of the Board of Supervisors shall issue or deny the issuance of a license to an applicant within thirty (30) days after receipt of an application; except that a Conditional Use Permit shall be approved pursuant to County Code § 83.030145. The Clerk of the Board shall issue the license unless the Clerk finds one or more of the following to be true:

(1) An applicant is under eighteen (18) years of age;

(2) An applicant is overdue in payment to the County of San Bernardino of fees owed by the applicant in relation to the adult-oriented business which is the subject of the application;

(3) An applicant has failed to completely fill out application for a license or has provided materially false information on the application;

(4) The license fee required by this chapter has not been paid;

(5) The premises to be used for the adult-oriented business has not been approved by the San Bernardino County Department of Environmental Health Services, appropriate fire department, the San Bernardino County Building and Safety Department and Department of Planning as being in compliance with applicable laws and ordinances, including the issuance of a Conditional Use Permit pursuant to San Bernardino County Code § 41.133(c);

(6) The applicant is operating the adult-oriented business without a license in violation of § 41.133 of this chapter.

ADULT-ORIENTED BUSINESS LICENSES

(b) The license shall state on its face the name of the person or persons to whom it is issued, the expiration date, and the address of the adult-oriented business. The license shall be posted in a conspicuous place at or near the entrance to the adult-oriented business so that it may be easily read at any time.

(c) The Clerk of the Board shall send to the applicant or licensee, by certified mail, return receipt requested, written notice of the action to issue or deny the license. The decision of the Clerk of the Board to deny issuance of the license shall be final.

Adopted Ordinance #3466 (1991);

41.135 Fees.

The initial application fee, the initial license fee, and the annual renewal fee for an adult-oriented business license shall be as established in the San Bernardino County Code schedule of fees.

Adopted Ordinance #3466 (1991);

41.136 Inspection.

An applicant or licensee shall permit representatives of the San Bernardino County Sheriff's Department, San Bernardino County Department of Environmental Health Services, appropriate fire department, the San Bernardino County Department of Building and Safety and the Planning Department to inspect the premises of an adult-oriented business for the purpose of insuring compliance with the provisions of this chapter at any time the premises is open for business, provided reasonable and normal business operations shall not be interfered with and the inspection is conducted in the same manner as an inspection for other businesses.

Adopted Ordinance #3466 (1991);

41.137 Expiration of License.

Each license shall expire one (1) year from the date of issuance and may be renewed only by making application upon penalty of perjury that there has been no material change in the business or its operation. Applications for renewal should be filed at least thirty (30) days before the expiration date; the application for renewal shall not extend the license beyond the expiration date. The Clerk of the Board of Supervisors shall issue the license or deny the application for renewal within thirty (30) days; the decision of the Clerk of the Board to deny renewal of the license shall be final.

Adopted Ordinance #3466 (1991);

41.138 Suspension.

The Clerk of the Board of Supervisors for the County of San Bernardino shall suspend a license if he or she determines that a licensee has failed to comply with any of the provisions of §§ 41.133, 41.134, or 41.135 of this chapter.

The suspension shall be for thirty (30) days or until the violation is corrected, whichever is longer.

Adopted Ordinance #3466 (1991);

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41.139 Revocation.

(a) The Clerk of the Board of Supervisors for the County of San Bernardino shall revoke a license if a cause for suspension in section 41.138 occurs and the license has been suspended within the preceding twelve (12) months; or,

(b) The Clerk of the Board of Supervisors for the County of San Bernardino shall revoke a license if he or she determines that:

(1) A licensee gave material false or misleading information in the material submitted to the Clerk of the Board during the application process;

(2) A licensee or an employee knowingly operated the adult-oriented business when the licensee's license was suspended;

(c) When the Clerk of the Board of Supervisors revokes a license, the revocation shall continue for one (1) year and the licensee shall not be issued an adult-oriented business license for that business for one (1) year from the date the revocation became effective.

Adopted Ordinance #3466 (1991);

41.1310 Appeal.

(a) If the Clerk of the Board of Supervisors for the County of San Bernardino suspends or revokes a license, the Clerk of the Board shall send to the applicant or licensee, by certified mail, return receipt requested, written notice of the action. The decision to suspend or revoke the license shall be effective ten (10) days after the notice of the decision has been deposited in the U.S. mail.

(b) An appeal of the decision to suspend or revoke the license may be made to the Clerk of the Board of Supervisors prior to the date on which the decision becomes effective. A properly filed application for appeal stays the decision to suspend or revoke the license until a decision is rendered on the appeal.

(c) The appeal proceedings shall be conducted pursuant to County Code § 12.270 et seq. and shall be before the Board of Supervisors, unless the Board, in its sole discretion, appoints a hearing officer to conduct the hearing. The decision of the Board of Supervisors to suspend or revoke the permit shall be final and shall be subject to California Code of Civil Procedure § 1094.6.

Adopted Ordinance #3466 (1991);

41.1311 Transfer of License.

Any license shall be immediately void if the applicant attempts to transfer the license to another person or location.

Adopted Ordinance #3466 (1991);

41.1312 Location of Adult-Oriented Businesses.

The location of an adult-oriented business shall be as specified in Title 8 of the San Bernardino County Code, § 88.0701 et seq.

Adopted Ordinance #3466 (1991);

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41.1313 Injunction.

A person who operates or causes to be operated an adult-oriented business without a valid license or in violation of § 41.1312 (location) of this chapter, is subject to a suit for injunction as well as prosecution for criminal violations.

Adopted Ordinance #3466 (1991);

41.1314 Severability.

If any provision, clause, sentence or paragraph of this chapter or the application thereof to any person or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of the provisions of this chapter which can be given effect without the invalid provision or application, and to this end, the provisions of this chapter are hereby declared to be severable.

Adopted Ordinance #3466 (1991);

FORTUNE-TELLING

Chapter 14

FORTUNE-TELLING

Sections:

- 41.141 Purpose and Intent.
- 41.142 Definitions.
- 41.143 License Required.
- 41.144 Issuance of License.
- 41.145 Fees.
- 41.146 Inspection.
- 41.147 Expiration of License.
- 41.148 Suspension.
- 41.149 Revocation.
- 41.1410 Appeal.
- 41.1411 Transfer of License.
- 41.1412 Injunction.
- 41.1413 Severability.

41.141 Purpose and Intent.

(a) It is the purpose of this chapter to regulate fortune-telling businesses to promote the health, safety, and general welfare of the citizens of the County of San Bernardino.

Adopted Ordinance #474 (1950); Amended Ordinance #649 (1950); Amended Ordinance #748 (1950); Amended Ordinance #1007 (1950); Amended Ordinance #1408 (1968); Amended Ordinance #3467 (1991);

41.142 Definitions.

Whenever in this chapter the following terms are used, they shall have the meanings respectively ascribed to them in this §41.142.

(a) ESTABLISHMENT means the premises, location or place advertised or used or proposed to be used for the practice of fortune-telling in exchange for payment.

(b) FORTUNE-TELLER means any person who engages in the practice of fortune-telling for payment and shall include any person who practices as a "psychic" or "spiritual reader" or "spiritual counselor".

(c) FORTUNE-TELLING means the telling of fortunes and forecasting of futures by means of the occult, psychic power, faculty, force, clairvoyance, clairsaudience, cartomancy, numerology, hypnosis, phrenology, spirits, tea leaves or other such reading, mediumship, seership, augury, astrology, palmistry, necromancy, mindreading, telepathy, or other craft, art, science, cards, talisman, charm, potion, magnetism, magnetized article or substance, cunning or foresight, crystal gazing, mysteries or magic of any kind or nature, when such is performed in exchange for payment.

(d) PAYMENT means a fee, reward, donation, gratuity, loan, compensation, consideration, or the receipt of anything of value in exchange for the practice of fortune-telling.

(e) PERSON means any individual, firm, partnership, joint venture, corporation, association, club or organization.

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(f) SHERIFF means the Sheriff of the County of San Bernardino or the Sheriff's representative.

Adopted Ordinance #474 (1950); Amended Ordinance #649 (1950); Amended Ordinance #748 (1950); Amended Ordinance #1007 (1950); Amended Ordinance #1408 (1968); Amended Ordinance #3467 (1991);

41.143 License Required.

(a) A person commits a misdemeanor if he or she operates a fortune-telling business within the unincorporated areas of the County of San Bernardino without a valid license issued by the County of San Bernardino for the particular type of business.

(b) An application for a license must be made on a form provided by the Clerk of the Board of Supervisors.

(c) A Conditional Use Permit, if required, must be obtained before a license application is accepted. The Conditional Use Permit application will be processed in accordance with the time limits of San Bernardino County Code § 83.030145.

(d) The applicant must be qualified according to the provisions of this chapter and the premises must be inspected and found to be in compliance with the law by the San Bernardino County Department of Environmental Health Services, appropriate fire department, the San Bernardino County Department of Building and Safety, and the San Bernardino County Planning Department.

(e) Any person who wishes to operate a fortune-telling business must sign the application for the license as the applicant.

(f) The fact that a person possesses any other valid license issued by the County of San Bernardino does not exempt the person from the requirement of obtaining a fortune-telling business license. A person who operates a fortune-telling business and possesses any other County license shall comply with the requirements and provisions of this chapter and all County Codes as well as the requirements and provisions of such other license.

Adopted Ordinance #474 (1950); Amended Ordinance #649 (1950); Amended Ordinance #748 (1950); Amended Ordinance #1007 (1950); Amended Ordinance #1408 (1968); Amended Ordinance #3467 (1991);

41.144 Issuance of License.

(a) The Clerk of the Board of Supervisors shall issue or deny the issuance of a license to an applicant within thirty (30) days after receipt of an application. The Clerk of the Board shall issue the license unless the Clerk finds one or more of the following to be true:

(1) An applicant is under eighteen (18) years of age;

(2) An applicant is overdue in payment to the County of San Bernardino of fees owed by the applicant in relation to the fortune-telling business which is the subject of the application;

(3) An applicant has failed to completely fill out application for a license or has provided materially false information on the application;

(4) The license fee required by this chapter has not been paid;

(5) The premises to be used for the fortune-telling business has not been approved by the San Bernardino County Department of Environmental Health Services, appropriate fire department, the San Bernardino County Building and Safety Department and Department of Planning as being in compliance with applicable laws

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and ordinances, including the issuance of a Conditional Use Permit pursuant to San Bernardino County Code § 41.143(c);

(6) The applicant is operating the fortune-telling business without a license in violation of § 41.143 of this chapter.

(b) The license shall state on its face the name of the person or persons to whom it is issued, the expiration date, and the address of the fortune-telling business. The license shall be posted in a conspicuous place at or near the entrance to the fortune-telling business so that it may be easily read at any time.

(c) The Clerk of the Board shall send to the applicant or licensee, by certified mail, return receipt requested, written notice of the action to issue or deny the license. The decision of the Clerk of the Board to deny issuance of the license shall be final.

Adopted Ordinance #474 (1950); Amended Ordinance #649 (1950); Amended Ordinance #748 (1950); Amended Ordinance #1007 (1950); Amended Ordinance #1408 (1968); Amended Ordinance #3467 (1991);

41.145 Fees.

(a) The initial application fee, the initial license fee, and the annual renewal fee for a fortune-telling business license shall be as established in the San Bernardino County Code schedule of fees.

Adopted Ordinance #474 (1950); Amended Ordinance #649 (1950); Amended Ordinance #748 (1950); Amended Ordinance #1007 (1950); Amended Ordinance #1408 (1968); Amended Ordinance #3467 (1991);

41.146 Inspection.

An applicant or licensee shall permit representatives of the San Bernardino County Sheriff's Department, San Bernardino County Department of Environmental Health Services, appropriate fire department, the San Bernardino County Department of Building and Safety and the Planning Department to inspect the premises of a fortune-telling business for the purpose of insuring compliance with the provisions of this chapter at any time the premises is open for business, provided reasonable and normal business operations shall not be interfered with and the inspection is conducted in the same manner as an inspection for other businesses.

Adopted Ordinance #474 (1950); Amended Ordinance #649 (1950); Amended Ordinance #748 (1950); Amended Ordinance #1007 (1950); Amended Ordinance #1408 (1968); Amended Ordinance #3467 (1991);

41.147 Expiration of License.

Each license shall expire one (1) year from the date of issuance and may be renewed only by making application upon penalty of perjury that there has been no material change in the business or its operation. Applications for renewal should be filed at least thirty (30) days before the expiration date; the application for renewal shall not extend the license beyond the expiration date. The Clerk of the Board of Supervisors shall issue the license or deny the application for renewal within thirty (30) days; the decision of the Clerk of the Board to deny renewal of the license shall be final.

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Adopted Ordinance #474 (1950); Amended Ordinance #649 (1950); Amended Ordinance #748 (1950); Amended Ordinance #1007 (1950); Amended Ordinance #1408 (1968); Amended Ordinance #3467 (1991);

41.148 Suspension.

The Clerk of the Board of Supervisors for the County of San Bernardino shall suspend a license if he or she determines that a licensee has failed to comply with any of the provisions of sections 41.143, 41.144, 41.145, or 41.146 of this chapter.

The suspension shall be for thirty (30) days or until the violation is corrected, whichever is longer.

Adopted Ordinance #474 (1950); Amended Ordinance #649 (1950); Amended Ordinance #748 (1950); Amended Ordinance #1007 (1950); Amended Ordinance #1408 (1968); Amended Ordinance #3467 (1991);

41.149 Revocation.

(a) The Clerk of the Board of Supervisors for the County of San Bernardino shall revoke a license if a cause for suspension in section 41.148 occurs and the license has been suspended within the preceding twelve (12) months; or,

(b) The Clerk of the Board of Supervisors for the County of San Bernardino shall revoke a license if he or she determines that:

(1) A licensee gave material false or misleading information in the material submitted to the Clerk of the Board during the application process;

(2) A licensee or an employee knowingly operated the fortune-telling business when the licensee's license was suspended;

(c) When the Clerk of the Board of Supervisors revokes a license, the revocation shall continue for one (1) year and the licensee shall not be issued a fortune-telling business license for that business for one (1) year from the date the revocation became effective.

Adopted Ordinance #474 (1950); Amended Ordinance #649 (1950); Amended Ordinance #748 (1950); Amended Ordinance #1007 (1950); Amended Ordinance #1408 (1968); Amended Ordinance #3467 (1991);

41.1410 Appeal.

(a) If the Clerk of the Board of Supervisors for the County of San Bernardino suspends or revokes a license, the Clerk of the Board shall send to the applicant or licensee, by certified mail, return receipt requested, written notice of the action. The decision to suspend or revoke the license shall be effective ten (10) days after the notice of the decision has been deposited in the U.S. mail.

(b) An appeal of the decision to suspend or revoke the license may be made to the Clerk of the Board of Supervisors prior to the date on which the decision becomes effective. A properly filed application for appeal stays the decision to suspend or revoke the license until a decision is rendered on the appeal.

(c) The appeal proceedings shall be conducted pursuant to County Code § 12.270 et seq. and shall be before the Board of Supervisors, unless the Board, in its sole discretion, appoints a hearing officer to conduct the hearing. The decision of the Board of Supervisors to suspend or revoke the permit shall be final and shall be subject to California Code of Civil Procedure § 1094.6.

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Adopted Ordinance #474 (1950); Amended Ordinance #649 (1950); Amended Ordinance #748 (1950); Amended Ordinance #1007 (1950); Amended Ordinance #1408 (1968); Amended Ordinance #3467 (1991);

41.1411 Transfer of License.

Any license shall be immediately void if the applicant attempts to transfer the license to another person or location.

Adopted Ordinance #474 (1950); Amended Ordinance #649 (1950); Amended Ordinance #748 (1950); Amended Ordinance #1007 (1950); Amended Ordinance #1408 (1968); Amended Ordinance #3467 (1991);

41.1412 Injunction.

A person who operates or causes to be operated a fortune-telling business without a valid license is subject to a suit for injunction as well as prosecution for criminal violations.

Adopted Ordinance #474 (1950); Amended Ordinance #649 (1950); Amended Ordinance #748 (1950); Amended Ordinance #1007 (1950); Amended Ordinance #1408 (1968); Amended Ordinance #3467 (1991);

41.1413 Severability.

If any provision, clause, sentence or paragraph of this chapter or the application thereof to any person or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of the provisions of this chapter which can be given effect without the invalid provision or application, and to this end, the provisions of this chapter are hereby declared to be severable.

Adopted Ordinance #474 (1950); Amended Ordinance #649 (1950); Amended Ordinance #748 (1950); Amended Ordinance #1007 (1950); Amended Ordinance #1408 (1968); Amended Ordinance #3467 (1991);

TEMPORARY SPECIAL EVENT PERMIT

Chapter 15

**TEMPORARY SPECIAL EVENT PERMIT
Repealed by Ordinance 3654 (1996)**

AUTOMATIC TELEPHONIC DIALING SYSTEMS

Chapter 16

AUTOMATIC TELEPHONIC DIALING SYSTEMS

Sections:

- 41.161 Automatic Dialing into County Government Line Prohibited.
- 41.162 Live Answering Service.
- 41.163 Permit to Install; Requirements.

41.161 Automatic Dialing into County Government Line Prohibited.

No person shall install, rise or cause to be used any telephonic device which is activated electronically *to automatically* dial a telephone line of the San Bernardino County Government, or special district with fire prevention and fire fighting powers.

Adopted Ordinance #1684 (1971);

41.162 Live Answering Service.

All automatic telephonic dialing systems, insofar as such systems are used to transmit messages to San Bernardino County Government installations, under the authority of the Board of Supervisors, shall dial to, and the message shall be received by, a live answering service, such as a private alarm dispatch center, or a telephone answering service, or a twenty-four (24) hour answering facility.

Adopted Ordinance #1684 (1971);

41.163 Permit to Install; Requirements.

No person shall install, use or cause to be used any telephonic device which is activated electronically to automatically dial a telephone within the unincorporated part of County of San Bernardino without first obtaining a permit from the San Bernardino County Sheriff to install and use such telephonic device. The Sheriff shall review all requests for telephonic burglar alarms and the Sheriff and the County Fire Warden or the chief of any special district the department involved shall review all requests for telephonic fire alarms. Before a permit may be issued, the following requirements shall be first complied with:

(a) There shall be filed with the San Bernardino County Sheriff by the current subscriber of the telephone which contains an automatic dialing device, that party's name, address, the telephone number and the location of the telephone for which the application is filed;

(b) There shall be filed with the San Bernardino County Sheriff by the current subscriber of the telephone which receives calls from an automatic telephone dialing system that party's name, address, the telephone number and the location of such telephone.

Adopted Ordinance #1684 (1971);

BINGO GAMES

Chapter 17

BINGO GAMES

Sections:

- 41.171 Definitions.
- 41.172 License Required.
- 41.173 License Fee.
- 41.174 Application for License.
- 41.175 Granting License.
- 41.176 Operation of Bingo Game.
- 41.177 Financial Interest.
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41.171 Definitions.

(a) **NONPROFIT ORGANIZATIONS:** A nonprofit organization is an organization exempted from the bank and corporation tax by Sections 23701(a), 23701(b), 23701(d), 23701(e), 23701(f), 23701(g), and 23701(i) of California Revenue and Taxation Code.

(b) **MINORS:** Minors are all persons defined as minors under Civil Code Section 25.1.

(c) **BINGO:** Bingo means a game of chance in which prizes are awarded by designated numbers or symbols on a card which conform with numbers or symbols selected at random.

(d) **PRIZES:** Prizes mean cash, kind, or both for each separate game which is held.

Adopted Ordinance #2110 (1976); Amended Ordinance #2193 (1977);

41.172 License Required.

No person other than a nonprofit organization, mobilehome park association, or senior citizen organization may conduct bingo games. Such organizations or association shall not conduct bingo games without first having secured a license to conduct such games, from the Board of Supervisors.

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Adopted Ordinance #2110 (1976); Amended Ordinance #2193 (1977);

41.173 License Fee.

A license fee as specified in Section 16.025(a)(14) shall be paid upon filing of each application for license for the purpose of defraying the expense incidental to the processing of the said application. If an application for a license is denied, one-half of said license fee shall be refunded to the organization.

Adopted Ordinance #2110 (1976); Amended Ordinance #2193 (1977);

41.174 Application for License.

Applicants for bingo license shall file a written, signed, and acknowledged application with the Clerk of the Board of Supervisors, showing:

- (a) The name and address of the applicant.
- (b) The dates, hours, and location where the bingo games will be operated.
- (c) The name or names of the person or persons having the management or supervision of said games.
- (d) Whether food and beverages will be available.
- (e) Such other reasonable information as may be required as to the identity or character of the applicant, manager, members or applicant operating said games.

If the applicant is a nonprofit organization, the application shall be accompanied by a copy of the tax exempt status determination issued by the State Franchise Tax Board to the applicant organization showing the applicant organization is exempt under the provisions of Sections 23701(a), 23701(b), 23701(d), 23701(e), 23701(f), 23701(g), 23701(i) of the California Revenue and Taxation Code.

The applicant shall submit with the application a declaration under penalty of perjury of a duly authorized officer or representative of the organization, which states that the applicant organization owns or leases the property of which the bingo games are to be held and that such property is used by such organization for an office or for purposes for which the organization is organized. Said declaration shall also indicate that the proceeds of such games will only be used for charitable purposes, except as provided in Section 41. 178(b) of this chapter.

Adopted Ordinance #2110 (1976); Amended Ordinance #2193 (1977);

41.175 Granting License.

After the making and filing of the application, the Clerk of the Board of Supervisors shall refer the application to the Sheriff for investigation. The Sheriff shall make reports of his findings, together with a recommendation as to whether or not the applicant shall be granted a license, to the Board of Supervisors within ten (10) working days after the application was referred to him. The license shall be issued for a specified location. The license shall be valid for a period of one (1) year from date of issuance.

Adopted Ordinance #2110 (1976); Amended Ordinance #2193 (1977);

41.176 Operation of Bingo Game.

(a) A bingo game shall be conducted only on property owned or leased by the nonprofit organization and used by it for an office or for performance of the purposes for which the organization is organized. Use solely for the purposes of conducting bingo

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games is not an acceptable use. The property owned or leased by the organization need not be used or leased exclusively by such organization. The bingo game shall be operated and staffed only by members of the licensed organization which organized said game. Such members shall not receive a profit, wage, or salary from any bingo game. Only the organization licensed to conduct a bingo game shall operate such game or participate in the promotion, supervision, or any other phase of such game. Bingo games shall not be held on more than ten (10) days in each calendar month nor for more than five (5) hours in any twenty-four (24) hour period. No bingo shall be permitted between the hours of 2:00 a.m. and 6:00 a.m.

(b) For purposes of this section, the term "profit", as used above, shall not include one complimentary meal to be consumed on the premises at which a bingo game is being conducted by any volunteer helping to staff the bingo game then being played. A volunteer may have no more than one (1) complimentary meal per five (5) hour period, and must consume the meal on the same date that the volunteer's services are being rendered.

Adopted Ordinance #2110 (1976); Amended Ordinance #2193 (1977); Amended Ordinance #3394 (1990);

41.177 Financial Interest.

No individual, corporation, partnership, or other legal entity except the organization authorized to conduct a bingo game shall hold a financial interest in the conduct of such bingo game.

Adopted Ordinance #2110 (1976); Amended Ordinance #2193 (1977);

41.178 Profits.

(a) NONPROFIT ORGANIZATIONS UNDER REVENUE AND TAXATION CODE SECTION 23701(d). All profits derived from a bingo game by organizations exempt from payment of the bank and corporation tax by Section 23701 (d) of the California Revenue and Taxation Code shall be kept in a special fund or account and shall not be comingled with any other fund or account. Such profits shall be used only for charitable purposes.

(b) OTHER LICENSED ORGANIZATIONS. With respect to other licensed organizations authorized to conduct bingo games, all proceeds derived from a bingo game shall be kept in a special fund or account and shall not be comingled with any other fund or account. Such proceeds shall be used only for charitable purposes, except as follows:

(1) Such proceeds may be used for prizes.

(2) A portion of such proceeds not to exceed twenty percent (20%) of the proceeds before the deduction for prizes, or two thousand dollars (\$2,000) per month, whichever is less, may be used for rental of property, overhead, and administrative expenses.

(c) RECORDS. Records required by this section shall be retained for a period of three (3) years. The licensee's books and records shall be available for inspection by the Sheriff upon reasonable notice.

Adopted Ordinance #2110 (1976); Amended Ordinance #2193 (1977); Amended Ordinance #3675 (1996);

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41.179 Participation Limited to Those Present.

No person shall be allowed to participate in a bingo game, unless the person is physically present at the time and place in which the bingo game is being conducted.

Adopted Ordinance #2110 (1976); Amended Ordinance #2193 (1977);

41.1710 Bingo Game Open to Public.

All bingo games shall be open to the public, not just to the members of the licensed organization.

Adopted Ordinance #2110 (1976); Amended Ordinance #2193 (1977);

41.1711 Value of Prizes.

The total value of prizes awarded during the conduct of any bingo game shall not exceed two hundred fifty dollars (\$250) in cash or kind, or both, for each separate game which is held.

Adopted Ordinance #2110 (1976); Amended Ordinance #2193 (1977);

41.1712 Minors Prohibited from Participation.

No minor shall be allowed to participate in any bingo game.

Adopted Ordinance #2110 (1976); Amended Ordinance #2193 (1977);

41.1713 Display of License.

Every licensee shall display the license issued by the County of San Bernardino in a conspicuous place in the premises where the bingo games are conducted.

Adopted Ordinance #2110 (1976); Amended Ordinance #2193 (1977);

41.1714 License Not Transferable.

Each license issued hereunder shall be issued to a specific nonprofit organization and for a specific location and shall in no event be transferable from one organization or location to another.

Adopted Ordinance #2110 (1976); Amended Ordinance #2193 (1977);

41.1715 Suspension or Revocation of License.

The Board may, upon its own motion or upon the verified complaint in writing of any person, investigate the actions of any licensee and may temporarily suspend, for a period not exceeding one (1) year, or revoke the permit of any licensee which commits any one or more of the acts or omissions constituting grounds for disciplinary action under this chapter.

Adopted Ordinance #2110 (1976); Amended Ordinance #2193 (1977);

41.1716 Disciplinary Action - Grounds.

It shall be a ground for denial, revocation, or other disciplinary action of any applicant, licensee, the agent, or employee, or any person connected or associated with

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the applicant or licensee as partner, director, officer, stockholder, general manager, or person exercising managerial authority of or on behalf of the licensee if such organization or person has:

- (a) Knowingly made any false, misleading, or fraudulent statement of a material fact in an application for a license, or in any report or record required to be filed with the Board; or
- (b) Violated any provision of this chapter or of any statute relating to the permitted activity; or
- (c) Been convicted of a felony or any crime involving moral turpitude; or
- (d) A bad moral character, intemperate habits or a bad reputation for truth, honesty, or integrity; or
- (e) Committed any unlawful, false, fraudulent, deceptive, or dangerous act while conducting permitted bingo games; or
- (f) Violated any rule or regulation adopted by the Board relating to the licensed bingo games; or
- (g) Conducted the permitted bingo game in a manner contrary to the peace, health, safety, and general welfare of the public; or
- (h) Failed to comply with zoning, Building and Safety, and Environmental Health Services regulations of San Bernardino County, and applicable local and state fire regulations.

Adopted Ordinance #2110 (1976); Amended Ordinance #2193 (1977);

41.1717 Suspension or Revocation Without Hearing.

If any applicant, licensee, the agent or employee or any person connected or associated with the applicant or licensee as partner, director, officer, stockholder, general manager, or person who is exercising managerial authority on behalf of the licensee is convicted in any court of the violation of any law regulating any activity at the licensee's business premises, the Board may revoke said license forthwith without any further action thereon other than giving notice of revocation to the licensee.

Adopted Ordinance #2110 (1976); Amended Ordinance #2193 (1977);

41.1718 Procedure.

An applicant or licensee may, within ten (10) days after service of a written notice of denial of a license or suspension or revocation of his license, file a request for a hearing with the Board. The request for hearing shall be in writing and signed by or on behalf of the applicant or licensee. It need not be verified or follow any particular form. Failure to file such a request for a hearing shall constitute a waiver of the licensee's right to a hearing.

Adopted Ordinance #2110 (1976); Amended Ordinance #2193 (1977);

41.1719 Pending Revocation or Suspension Proceedings, Effect on Licensee.

Pending the final determination of a proceeding for revocation or suspension of a license, a licensee may continue to operate bingo games until the Board makes such final determination.

Adopted Ordinance #2110 (1976); Amended Ordinance #2193 (1977);

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41.1720 License Renewal - Effect of Pendency of Proceeding to Suspend or Revoke License.

A licensee may file an application for renewal of a license pursuant to Section 41.175. A ten dollar (\$10) renewal fee shall be required. Renewal application should be filed at least thirty (30) days prior to expiration of the license period. In the event a renewal application is filed during the pendency of a proceeding to suspend or revoke the license, such filing shall continue such license in full force and effect until the entry of the final order by the Board terminating proceedings. Failure of the Board to revoke, suspend, limit, or condition the license shall have the effect of granting said license. The application for renewal shall become a part of the pending proceeding and be subject to all evidence which has been or is thereafter presented. No further notice to the applicant is required and the Board or Hearing Officer is authorized to consider and make findings upon such application in accordance with this chapter.

Adopted Ordinance #2110 (1976); Amended Ordinance #2193 (1977); Amended Ordinance #3604 (1995)

41.1721 Fictitious Name.

It shall be unlawful for any person or persons to sign a fictitious name or fictitious address in connection with applications submitted pursuant to this chapter.

Adopted Ordinance #2110 (1976); Amended Ordinance #2193 (1977);

41.1722 Penalty.

Any person violating any provision of this chapter shall be guilty of a misdemeanor and subject to a fine of not more than five hundred dollars (\$500) or imprisonment in the County Jail for not more than six (6) months, or both such fine and imprisonment; provided, however, pursuant to subsections (b) and (c) of Section 326.5 of the Penal Code, any persons paying or receiving a profit, wage, or salary from any bingo game authorized by Section 19 of Article IV of the State Constitution and this chapter shall be guilty of a misdemeanor and shall be punishable by a fine not to exceed ten thousand dollars (\$10,000). In accordance with subsection (d) of Section 326.5 of the Penal Code, the County may bring an action to enjoin a violation of any provision of this chapter.

Adopted Ordinance #2110 (1976); Amended Ordinance #2193 (1977);

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Chapter 18

TAXICAB SERVICE

Sections:

- 41.181 Definitions.
- 41.182 Permit Required for Taxicab Service.
- 41.183 Application for Taxicab Service Permit.
- 41.184 Issuance of Taxicab Service Permit.
- 41.185 Grounds for Denial or Revocation of Taxicab Service Permit.
- 41.186 Permit Fees.
- 41.187 Taxicab Driver's Permit.
- 41.188 Application for a Taxicab Driver's Permit.
- 41.189 Grounds for Denial or Revocation of Taxicab Driver's Permit.
- 41.1810 Issuance of Taxicab Driver's Permit.
- 41.1811 Appeal Procedures.
- 41.1812 Revocation of Permits.
- 41.1813 Exemptions.
- 41.1814 Time for Compliance by Existing Taxicab Services and Taxicab Drivers.
- 41.1815 Penalty.

41.181 Definitions.

As used in this Chapter, the following terms shall have the meanings set forth below:

- (a) Driver. Any person driving a taxicab either as owner or under the direction, employment control, or service of the owner as herein defined.
- (b) Owner. Every person having control, whether by outright ownership, lease or otherwise of any taxicabs for hire.
- (c) Person. Includes both singular and plural, and shall mean and include any individual, firm, corporation, association, partnership, or society, exclusive of public agencies.
- (d) Taxicab. Any vehicle which is used to provide taxicab service as defined in this Chapter.
- (e) Taxicab Service. Taxicab service means any public passenger transportation service available for hire on call or demand over the public streets of the unincorporated area of San Bernardino County where the service is not provided over a defined route but between such points and over such routes as may be directed by the passenger(s) or person(s) hiring the same, and irrespective of whether the operations extend beyond the area of the unincorporated portion of San Bernardino County.

Adopted Ordinance #2718 (1982);

41.182 Permit Required for Taxicab Service.

It shall be unlawful for any person to engage in the business of operating or causing to be operated any taxicab service within the unincorporated area of San Bernardino County, without having a County permit to do so under the provisions of this Chapter.

Adopted Ordinance #2718 (1982);

41.183 Application for Taxicab Service Permit.

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(a) Any person desiring to obtain a permit to operate a taxicab service under this Chapter shall submit a written application to the Clerk of the Board of Supervisors of the County of San Bernardino. The application forms will be provided by the Clerk of the Board of Supervisors. Applications shall be signed under penalty of perjury and shall contain the following information:

- (1) Name, residence address and telephone number of the applicant.
- (2) Business name, address and telephone number of the applicant.
- (3) Number of vehicles to be operated under the permit.
- (4) The make, type, year, manufacturer, and passenger seating of the vehicles to be used by the applicant.
- (5) The proposed color scheme, insignia or other distinguishable characteristics of the taxicab to be used, including the type of illuminated sign to be mounted on the top of the vehicle and legend thereon.
- (6) Evidence of public liability insurance of not less than \$100,000 for each person killed or injured and not less than \$300,000 for injury or death of any two (2) or more persons in any one accident, and for damages to property of at least \$50,000 from any one (1) accident.
- (7) Legal and registered ownership of the vehicles to be used by the applicant.
- (8) Prior experience of the applicant in the taxicab business including any prior denial, revocation or suspension by any public agency of any taxicab service or taxicab driving permit, license or certificate.
- (9) All felony convictions of the applicant and of all persons having an ownership interest in the proposed taxicab service.

Adopted Ordinance #2718 (1982);

41.184 Issuance of Taxicab Service Permit.

Upon the furnishing of all the information required by Section 41.183 and payment of the required fee under this Chapter, the Board of Supervisors shall issue the applicant a Taxicab Service Permit if the applicant is in compliance with this Chapter and there are no grounds for denial of the permit under the provisions of this Chapter. Any applicant denied a permit shall be given written notice of the reasons for the denial.

Adopted Ordinance #2718 (1982);

41.185 Grounds for Denial or Revocation of Taxicab Service Permit.

- (a) Taxicab Service Permits shall be denied or revoked on the following grounds:
- (1) Failure to have or maintain insurance as required by this Chapter.
 - (2) Failure to maintain vehicles in good and safe order and in compliance with all laws.
 - (3) False statements made on an application submitted under this Chapter.
 - (4) Failure to pay any fees as required under this Chapter or the County Code Fee Schedule.
 - (5) Repeated and persistent violations by the permittee or the permit holder's drivers of the traffic laws of the County and State.
 - (6) Employing of a driver who does not have a valid Taxicab Driver's Permit under the requirements of this Chapter.
 - (7) Violation of any of the provisions of this Chapter by the permit holder.

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41.186 Permit Fees.

Every person engaging in or carrying on the business of taxicab service shall pay an annual permit fee as set forth in the San Bernardino County Code Fee Schedule. Every person engaging in the activity of driving a taxicab shall pay an annual permit fee as set forth in the San Bernardino County Code Fee Schedule. Required fees shall be paid at the time an application for a permit is submitted under this Chapter.

Every permit issued under this Chapter shall terminate at the expiration of one (1) year from the date of its issuance unless revoked prior to said termination. Any renewal of a permit issued under this Chapter shall be pursuant to the same requirements, procedures, provisions and regulations set forth in this Chapter for an original permit. A person holding a Taxicab Service Permit may not drive a taxicab without also possessing a Taxicab Driver's Permit. Permits issued under this Chapter may not be transferred to any other person.

Adopted Ordinance #2718 (1982);

41.187 Taxicab Driver's Permit.

It shall be unlawful for any person to drive a taxicab in the unincorporated area of San Bernardino County without having a Taxicab Driver's Permit to do so under the provisions of this Chapter.

Adopted Ordinance #2718 (1982);

41.188 Application for a Taxicab Driver's Permit.

(a) Any person desiring to obtain a Taxicab Driver's Permit shall submit a written application to the Sheriff of San Bernardino County. The applicant shall provide requested information on application forms supplied by the Sheriff regarding the following:

- (1) Pertinent personal data and proof of possession of a valid Class 3 driver's license issued by the State of California.
- (2) Physical condition.
- (3) Traffic record for three (3) years prior to application.
- (4) All criminal convictions of the applicant.
- (5) Experience in driving motor vehicles, taxis and other vehicles for hire.
- (6) The name and address of the taxicab service by whom the applicant will be employed.

Each applicant shall be fingerprinted and photographed by the Sheriff's Office and a criminal records check shall be conducted on the applicant. The applicant will be required to pay the Sheriff's established fees for such services in addition to the Taxicab Driver's Permit fee. A driver obtaining a permit renewal need not be fingerprinted and photographed if the Sheriff determines that such is not necessary for proper administration of this Chapter.

Adopted Ordinance #2718 (1982);

41.189 Grounds for Denial or Revocation of Taxicab Driver's Permit.

- (a) Taxicab Driver's Permits shall be denied or revoked on the following grounds:
- (1) The person does not possess a valid Class 3 driver's license issued by the State of California.

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- (2) The person is less than eighteen (18) years of age.
- (3) The person is required to register pursuant to Section 290 of the California Penal Code.
- (4) The person has been convicted of a crime involving moral turpitude, soliciting for prostitution, narcotics or dangerous drugs, unless a period of not less than three (3) years has elapsed since the date of conviction or the date of release from confinement for such offense, whichever is later.
- (5) The person has been convicted for driving a taxicab recklessly within the preceding two (2) years.
- (6) Repeated and persistent violations of the traffic laws of the County and State.
- (7) Driving any taxicab the driver knew or should have known was not in good order and repair.
- (8) False statements made on an application submitted under this Chapter.
- (9) Operating a taxicab while under the influence of alcoholic beverages, narcotics or other habit-forming drugs.
- (10) Violation of any of the provisions of this Chapter.

Adopted Ordinance #2718 (1982);

41.1810 Issuance of Taxicab Driver's Permit.

If the Sheriff finds that the applicant is duly qualified, of good moral character, in compliance with the provisions of this Chapter and there are no grounds for denial, the Sheriff shall issue a Taxicab Driver's Permit to the applicant. Any applicant denied a permit shall be given written notice of the reasons for the denial. Permits shall remain the property of the County of San Bernardino and are not transferable to any other driver. A permit shall be surrendered to the Sheriff by the driver upon such driver ceasing to engage in the activity of a taxicab driver. The Taxicab Driver's Permit shall set forth the driver's name and working address. The permit shall bear the driver's picture and shall be displayed while the driver is operating the taxicab so as to at all times be easily visible in the passenger's compartment of the taxicab.

Upon payment of all required fees, submittal of the required application and completion of fingerprinting and photographing, the Sheriff shall issue a Temporary Taxicab Driver's Permit which shall be valid for up to sixty (60) days if the applicant certifies under penalty of perjury that there are no grounds for denying the applicant a permit under the provisions of Section 41.189. A Temporary Taxicab Driver's Permit may be terminated by the Sheriff at any time by written notification of termination to the holder of a Temporary Driver's Permit if the Sheriff's investigation determines that grounds for denial of a permit exists under Section 41.189. Any Temporary Permit shall automatically terminate upon the issuance of a regular Taxicab Driver's Permit to the applicant after the completion of the Sheriff's investigation.

Adopted Ordinance #2718 (1982);

41.1811 Appeal Procedures.

Any person denied a permit pursuant to this Chapter may appeal to the Board of Supervisors in writing, stating reasons why the permit should be granted. The Board of Supervisors may grant or deny the permit. Any appeal must be made within ten (10) days of the mailing of notice of the denial of a permit. The Board of Supervisors may

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hear appeals directly or in its sole discretion may appoint a hearing officer to hear any appeal and make a recommendation to the Board of Supervisors pursuant to County Code, Section 12.270 et seq. The decision of the Board of Supervisors on any appeal shall be final.

Adopted Ordinance #2718 (1982);

41.1812 Revocation of Permits.

No permit issued under this Chapter shall be revoked until notice is provided and a hearing to determine whether there are grounds for revocation shall have been held before the Board of Supervisors or in the Board's sole discretion before a hearing officer appointed by the Board of Supervisors to hear the appeal and make a recommendation to the Board under County Code, Section 12.270 et seq. Notice of such hearing shall be given in writing and served at least ten (10) days prior to the date of the hearing thereon. The notice shall state the grounds of the complaint against the holder of such permit, and shall designate the time and place where such hearing will be held. Said notice shall be served upon the permit holder by delivering the same personally or by leaving such notice at the place of business or residence of the permit holder in the custody of a person over the age of eighteen (18) years. In the event the permit holder cannot be found, and the service of such notice cannot be otherwise made in the manner herein provided, a copy of such notice shall be mailed, certified postage fully prepaid, addressed to the permit holder at his or her place of business or residence at least ten (10) days prior to the date of such hearing. The decision of the Board of Supervisors in a revocation appeal shall be final. This Chapter shall be enforced by the Sheriff of San Bernardino County.

Adopted Ordinance #2718 (1982);

41.1813 Exemptions.

This Chapter shall not apply to public transportation service being performed pursuant to a contract with the County of San Bernardino or any other public entity in this State. A taxicab service shall not be required to obtain a permit under this Chapter for taxicab service in the unincorporated area of the County when said taxicab service is located within a city of the County and its vehicles are based within said city and the taxicab service has a license, certificate or permit from said city to engage in taxicab service under a city ordinance which regulates taxicab service.

A driver operating a taxicab for a service that is exempt from a permit under the preceding sentence shall not be required to have a driver's permit under this Chapter if such driver has a valid permit or license from a city within San Bernardino County which requires an individual taxicab driver's permit or license.

Adopted Ordinance #2718 (1982);

41.1814 Time for Compliance by Existing Taxicab Services and Taxicab Drivers.

Any taxicab service or taxicab driver performing service on the effective date of this Chapter shall have sixty (60) days from the effective date of this Chapter to obtain permits required hereunder.

Adopted Ordinance #2718 (1982);

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41.1815 Penalty.

Violation of any of the provisions of this Chapter is a misdemeanor and punishable by a fine not exceeding five hundred dollars (\$500) or by imprisonment in the County Jail not exceeding six (6) months, or by both such fine and imprisonment.

Adopted Ordinance #2718 (1982);

MESSAGE CLINICS

Chapter 19

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Sections:

- 41.191 Definitions.
- 41.192 License Requirements.
- 41.193 License Exemptions.
- 41.194 Application Form and Content.
- 41.195 Investigation by Sheriff.
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- 41.199 License Fee.
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- 41.1914 Notice of Massage Technicians Employed by Licensee.
- 41.1915 Duration and Renewal of License.
- 41.1916 Hours of Operation and Other Restrictions.
- 41.1917 Prohibited Conduct.
- 41.1918 Inspection and Enforcement.
- 41.1919 Abatement.
- 41.1920 Revocation of License.
- 41.1921 Civil Penalties.
- 41.1922 Appeal Rights.
- 41.1923 Validity.

41.191 Definitions.

For the purpose of this chapter, the following terms, phrases, words and their derivations, shall have the meanings set forth herein. Words used in the present tense includes the future tense, plural words include the singular, and singular words include the plural. Words not specifically defined shall be given their common and ordinary meanings. The word "shall" as used herein is mandatory and not merely directory.

(a) "Board of Supervisors" shall refer to the Board of Supervisors of San Bernardino County.

(b) "Clerk of the Board" shall refer to the Clerk of the Board of Supervisors of San Bernardino County.

(c) "County" shall mean the County of San Bernardino.

(d) "EHS" shall refer to the Department of Environmental Health Services of the County of San Bernardino.

(e) "Massage" means any method of pressure on or friction against, or stroking, kneading, rubbing, tapping, pounding, or stimulating the external parts of the body with the hands or other parts of the body, with or without the aid of any mechanical or electrical apparatus or appliances, or with or without supplementary aids such as rubbing alcohol, liniments, antiseptics, oils, powder, creams, lotions, ointments, or other similar items commonly used in this practice.

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(f) "Massage Clinic" means and includes any massage clinic, parlor or any room, place or institution where massage is given or administered by a massage technician.

(g) "Massage Technician" means and includes any person who gives, performs or administers to another person a massage as defined in this section.

(h) "Notice Address" shall be the address designated by the licensee for the mailing of all notices, legal mail, and other written communications from the County to the licensee.

(i) "Person" means and includes person(s), firms, corporations, partnerships, associations or other forms of business organization or group.

(j) "Sheriff" shall refer to the Sheriff of the County of San Bernardino and/or his or her deputies.

(k) "Recognized School" means any school or institution of learning which teaches the theory, ethics, practice, profession, and work of massage, which school or institution has been approved pursuant to California Education Code section 94300 et seq., and applicable regulations. A school offering a correspondence course not requiring actual attendance shall not be deemed a recognized school.

(l) "Specified Anatomical Areas" shall include any of the following human anatomical areas: genitals, pubic regions, anuses or female breasts below a point immediately above the top of the areolae.

(m) "Specified Sexual Activities" shall include all the following:

- (1) The fondling or other erotic touching of specified anatomical areas;
- (2) Sex acts, normal or perverted, including intercourse, oral copulation, or sodomy;
- (3) Masturbation; or
- (4) Excretory functions as part of or in connection with any of the activities set forth in (1) through (3) above.

(n) "Customer" shall include all clients, customers, patrons, guests, and any other person who receives a massage, within an establishment licensed as a massage clinic under this chapter of the San Bernardino County Code.

Adopted Ordinance #3484 (1992); Amended Ordinance #3518 (1992); Amended #3556 (1993);

41.192 License Requirements.

It shall be unlawful for any person to practice, engage in or carry on the business or activities of a massage clinic within the unincorporated area of the County without having a license under this chapter to do so, and complying with all regulations and requirements as hereinafter contained and set forth. It shall be unlawful for any owner, operator, responsible managing employee, manager or permittee in charge of or in control of a massage clinic to employ or permit a person to act as a massage technician, as defined in this chapter, within the unincorporated area of the County, who is not in possession of a valid, unrevoked massage technician license issued by the County. A license to perform services as a massage technician does not authorize the operation of a massage clinic. Nor does possession of a license issued under this chapter entitle the holder to personally perform activities requiring a massage technician's license, unless such person additionally holds a massage technician license.

Adopted Ordinance #3484 (1992);

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41.193 License Exemptions.

This chapter shall not apply to the following classes of individuals, and no massage clinic license shall be required of such persons, while engaged in the performance of the duties of their respective professions:

(a) Physicians, surgeons, chiropractors, osteopaths, or physical therapists who are duly licensed to practice their respective professions in the State of California, and persons working at the place of business and under the supervision of a licensed physician, surgeon, chiropractor, osteopath, or physical therapist.

(b) Nurses who are registered as such under the laws of the State of California.

(c) Barbers, beauticians and cosmetologists who are duly licensed under the laws of the State of California.

(d) Athletic trainers.

(e) Acupuncturists who are duly certified to practice their profession in the State or California.

Adopted Ordinance #3484 (1992); Amended Ordinance #3556 (1993);

41.194 Application Form and Content.

(a) Required Information. Any person desiring to obtain a license to operate a massage clinic or renew an existing massage clinic license shall make written application to the Clerk of the Board on a written form to be provided by the Clerk, who shall promptly refer all complete applications to the Sheriff and EHS for investigation. Said application shall include, but not necessarily be limited to the following items:

(1) Name. The applicant's full name and any aliases heretofore used or currently used and current business address and mailing address and the names and residence addresses of all officers, directors, and each stockholder holding more than ten percent (10%) of the stock, if a corporation, or partners, if a partnership.

(2) Addresses. All previous businesses, and where applicable, the residential addresses of the applicant or applicant's principal officers, directors, and stockholders holding more than ten percent (10%) of stock, if a corporation, or partners, if a partnership, for the five (5) years immediately preceding submission of the application.

(3) Physical Description. Height, weight, color of eyes and hair of applicant or each of the applicant's officers, directors, and each stockholder holding more than ten percent (10%) of stock, if a corporation, or partners, if a partnership, together with at least two (2) current color photographs at least two inches by two inches (2"x2") in size for each individual.

(4) Proof of Age. A certified birth certificate, immigration papers, passport, or current California Driver's License evidencing the fact the applicant is no less than eighteen (18) years of age.

(5) Business Information. The business, occupation, or employment of the applicant or the applicant's officers, directors, and each stockholder holding more than ten percent (10%) of the stock, or partners, if a partnership, for the three (3) years immediately preceding the date of the application. If the applicant is a corporation, the name of the corporation shall be set forth exactly as shown in its Articles of Incorporation and a copy of the Articles of Incorporation attached to the application.

(6) Location for Licensed Activities. Each location where the licensed activities will be conducted and the names and addresses of all massage technicians employed at those locations.

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(7) Prior Licenses. A statement of any business license history relating to massage or any procedure described in Section 41. 191(e) of the applicant and of applicant's partners, if a partnership, or each of the officers, directors, or persons who hold more than ten percent (10%) of the stock, if a corporation, including a statement of whether such person, in previous operations, has had such license revoked or suspended, the reason therefore, and a statement setting forth all massage business history or occupation subsequent to such suspension or revocation.

(8) Criminal Convictions. A statement of whether the applicant, and any partners, if a partnership, or officers, directors, or persons holding more than ten percent (10%) of the stock, if a corporation, have been convicted of an offense involving conduct which requires registration under the California Penal Code section 290, or conduct which is in violation of the provisions of California Penal Code sections 266i, 315, 316, 318 or 647(b), or any felony involving the sale of a controlled substance specified in Sections 11054 through 11058 of the California Health and Safety Code, or has been convicted in another state of an offense, which, if committed or attempted in this state would have been punishable as one or more of the offenses enumerated in this section, or was convicted of one or more other offenses as may be described under Government Code section 51032.

(9) Notice Address. The address to which all notices and communications from the County to the applicant or licensee shall be directed. It shall be the responsibility of the applicant or licensee to immediately inform the Clerk of the Board, in writing, of any changes of the applicant or licensee's notice address.

(b) License Fee. Each application for massage clinic license shall be accompanied by nonrefundable investigative fee as specified in Chapter 2 of Division 6 of Title I relating to fees.

(c) Incomplete Applications. The Clerk of the Board shall promptly reject any incomplete application which does not meet all requirements of this section, and upon request of the applicant, shall notify the applicant in writing, by first-class mail, postage prepaid, to the address supplied to the Clerk of the Board by the applicant, of the deficiencies in the application.

(d) Filing for Renewal. No application for renewal of the license shall be accepted earlier than ninety (90) days prior to expiration of the license.

Adopted Ordinance #3484 (1992);

41.195 Investigation by Sheriff.

(a) Review of Application. The Sheriff shall conduct an investigation of the matters set forth in the application. The Sheriff shall review the information submitted to the Clerk of the Board and shall review any other documents or materials which are requested by the Sheriff in the course of investigation and which reasonably relate to the licensing requirements of this chapter. The Sheriff shall require the applicant to be fingerprinted and to pay whatever fingerprinting fee is then in effect.

(b) Report on Investigation Results. The Sheriff shall promptly report to the Clerk of the Board whether the application and the other documents and materials submitted by the applicant meet all requirements of this chapter and all other applicable laws.

Adopted Ordinance #3484 (1992);

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41.196 Investigation by Environmental Health Services, Building and Safety, Planning, and Fire Departments.

(a) Following receipt of the Sheriff's report required under Section 41.195, if the Sheriff determines that the application and other documents and materials submitted by the applicant do not meet all requirements of this Chapter and all other applicable laws, the Clerk of the Board shall issue a Notice of Denial to applicant pursuant to the provisions of Section 41.1910(g).

(b) Following receipt of the Sheriff's report required under Section 41.195, if the Sheriff determines that the application and other documents and materials submitted by the applicant do meet all requirements of this Chapter and all other applicable laws, the Clerk of the Board shall submit the massage clinic application for review by the Department of Environmental Health Services, the Department of Building and Safety, the County Planning Department, and the fire department having jurisdiction over the premises on which the licensed activities are to be conducted, to determine whether the premises comply with applicable laws, including appropriate Development Code requirements and the County General Plan. The departments referenced above shall promptly conduct their investigation and shall thereafter promptly render their reports to the Clerk of the Board.

(c) Following receipt of the departmental reports required under subsection (b) of this Section 41.196, the Clerk of the Board shall either:

(1) Issue the massage clinic license to the applicant if each report from each department specified in subparagraph (a) of this Section 41.196 finds that the premises on which the licensed activities are to be conducted comply with applicable laws, including appropriate Development Code requirements and the County General Plan; or

(2) Issue a Notice of Denial to applicant pursuant to the provisions of Section 41.1910(g) if each report from each department specified in subparagraph (a) of this Section 41.196 does not find that the premises on which the licensed activities are to be conducted comply with applicable laws, including appropriate Development Code requirements and the County General Plan.

Adopted Ordinance #3484 (1992); Amended Ordinance #3518 (1992); Amended Ordinance #3758 (1994);

41.197 Facilities and Operations.

(a) Operating Requirements. No license to operate a massage clinic shall be issued nor may any massage clinic operate unless the massage clinic premises and operation comply with each of the following minimum requirements:

(1) Signage. A readable sign shall be posted at the main entrance identifying the establishment as a massage clinic, provided, however, that all such signs shall otherwise comply with the sign requirements of the County Code.

(2) Lighting. Minimum lighting shall be provided in accordance with the Uniform Building Code. In addition, at least one (1) unobstructed artificial light, white in color, of not less than sixty (60) watts shall be provided and used at all times in each enclosed room or booth while massage services are being rendered.

(3) Ventilation. Minimum ventilation shall be provided in accordance with the Uniform Building Code.

(4) Disinfection of Instruments. Instruments used for massage shall be disinfected prior to each use by a reasonable method approved by the Department of Environmental Health Services. Where such instruments for massage are employed,

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adequate quantities of supplies for disinfection shall be available during all hours of operation.

(5) Water. Hot and cold running water shall be provided.

(6) Linen Storage. Closed cabinets shall be utilized for the storage of clean towels and linen. After use, towels and linen shall be removed from the room or booth and stored in a clean container until laundered.

(7) Dressing and Toilet Facilities. Dressing and toilet facilities shall be provided for patrons.

(8) Sanitary Conditions. All walls, ceilings, floors, steam and vapor rooms, and all other physical facilities for the massage clinic shall be kept in good repair, maintained in a clean and sanitary condition.

(9) Clean Linen. Clean and sanitary towels and linens shall be provided for patrons receiving massage services. No common use of towels or linens shall be permitted.

(10) Technician's Dress Code. Licensees under this chapter shall insure that all persons employed to work on the massage clinic premises, and including all massage technicians conducting licensed activities on the massage clinic premises, shall be dressed in clothing made of an opaque material, and at a minimum, shall not expose the technician's undergarments or bare midriff, or any specified anatomical areas, and shall comply with the following requirements, as applicable:

(A) Upper garments. All garments covering the upper torso (e.g., shirts or dresses) shall have sleeves not less than two inches (2") in length, measuring from the top of the shoulder, and necklines no lower than two inches (2") below the clavicle.

(B) Skirts. Hems of dresses, skirts, smocks, or other similar garments shall not be more than two inches (2") above the top of the knee.

(C) Shorts. Cuffs or hems of shorts, culottes, pants or other similar garments shall not be more than six inches (6") above the top of the knee.

(11) Compliance with Laws. The premises to be used shall at all times comply with applicable laws.

(b) EHS Licensing Investigation. Upon receipt of a license application from the Clerk of the Board pursuant to Section 41.196, EHS shall promptly conduct an investigation to determine compliance with the requirements of this section and shall promptly issue a health permit upon receipt of notice of approval of a massage clinic license. Said permit shall be posted in a conspicuous place on the premises.

Adopted Ordinance #3484 (1992);

41.198 Massage Clinic Examination.

All applicants for new massage clinic licenses and renewals of expired licenses must pass a written examination before a massage clinic license will be issued. Such written examination shall comply with the following requirements:

(a) Notification of Examination Date. If the Sheriff reports to the Clerk of the Board that a massage clinic application and accompanying documents meet the requirements of this chapter and all other applicable laws, the Clerk of the Board shall notify the applicant of the next regularly scheduled massage clinic examination date, and the time and place such examination is to be held. The Clerk of the Board shall additionally schedule the applicant to take the massage clinic examination on the next regularly scheduled examination date.

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(b) Contents of Examinations. The massage clinic examination shall test the applicant's knowledge of Chapters 19 (Section 41.191, et seq.) and 20 (Sections 41.201, et seq.) of Division 1 of Title 4 of the San Bernardino County Code. Each applicant shall be considered to have passed the massage clinic examination by answering seventy percent (70%) of the examination questions correctly.

(c) Scheduling of Examinations. The Clerk of the Board shall schedule massage clinic examinations to be held no less frequently than once every February, May, August, and November. Results of massage clinic examinations shall be made available to applicants within fourteen (14) days following the date upon which the examination is completed.

(d) The requirement for passing a written examination does not apply if an application for renewal is made prior to the license's expiration date.

Repealed Ordinance #3518 (1992); Adopted Ordinance #3556 (1993)

41.199 License Fee,

Every person practicing, engaging in or carrying on the activities or business of a massage clinic shall procure a license or temporary license and pay a license fee as specified in Chapter 2 of Division 6 of Title I relating to fees in addition to all other fees required under this chapter.

Adopted Ordinance #3484 (1992);

41.1910 Grounds for Denial of License.

A massage clinic license shall be denied upon the determination of any one of the following:

(a) Criminal Convictions. The applicant, owners, operators, partners if a partnership, or officers, directors, or persons holding more than ten percent (10%) of the stock, if a corporation, or any of them, has within ten (10) years immediately preceding the date of the application been convicted of any of the offenses set forth in Section 41.194(a)(8), or have, within the same time frame been convicted of any offense in another state which, if committed or attempted in this State, would have been punishable as one or more offenses enumerated under this section, or is required to register under Section 290 of the Penal Code.

(b) Revocation of Prior Licenses. The applicant, owners, operators, partners if a partnership, or officers, directors, or persons holding more than ten percent (10%) of the stock, if a corporation, or any of them, has had a massage clinic license or massage technician license revoked or suspended for cause within the five (5) year period immediately preceding the date of the application.

(c) Misstated Facts. The applicant has knowingly misstated facts or falsified information on the application.

(d) Failure to Comply with Application Requirements. The applicant has failed to comply with the requirements of Sections 41.194 and 41.197.

(e) Prior Unlicensed Business. The applicant has conducted a business requiring a massage clinic or massage technician license in the unincorporated portion of the County without such a license having been issued by the County within the five (5) years immediately preceding the application.

(f) Prohibited Conduct. An applicant has been found to have engaged in prohibited conduct in violation of Subsection 41.1917(a) and/or 41.2014(a).

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(g) Notice of Denial. Upon determination of grounds to deny a license, the Clerk of the Board shall cause a "Notice of Denial" to be mailed by first class mail, postage prepaid, to the notice address designated by the applicant pursuant to Section 41.194(a)(9).

Adopted Ordinance #3484 (1992); Amended Ordinance #3556 (1993); Amended Ordinance #3579 (1994);

41.1911 License Denial.

Any person denied a license pursuant to this chapter may not operate a massage clinic and must cease all operations being conducted under any temporary operating permit issued under this chapter. An applicant whose license has been denied may appeal the denial to the Board of Supervisors as set forth in Section 41.1922 of this chapter.

Adopted Ordinance #3484 (1992);

41.1912 Licenses Non-Transferable.

All licenses issued under this chapter are non-transferable both as to location, and as to the person holding the license.

41.1913 Display of License.

Any person to whom a massage clinic license is granted shall display said license prominently in a conspicuous place, capable of being viewed by customers, at every location where the licensed activities are performed or conducted.

Adopted Ordinance #3484 (1992); Amended Ordinance #3556 (1993);

41.1914 Notice of Massage Technicians Employed by Licensee.

(a) No Unlicensed Massage Technicians. Licensees under this chapter shall not permit anyone not holding a valid massage technician's license issued by the County to perform massage in a massage clinic licensed by the County.

(b) Notices to the County. Each licensee under this chapter shall notify the Clerk of the Board, in writing, within five (5) days of the hiring and/or commencement of services, whichever is first, of the name, license number, date of hiring, and location of each massage clinic where employed, of each massage technician whose services are utilized by the licensee. Licensee shall also notify the Clerk of the Board, in writing, within five (5) days of the termination of employment or services of the name, license number, termination date, and location of each massage clinic where employed, of each massage technician whose services and/or employment has terminated.

Adopted Ordinance #3484 (1992);

41.1915 Duration and Renewal of License.

(a) Term. Each license issued under this chapter shall terminate at the expiration of one (1) year from the date of its issuance unless revoked prior to said termination pursuant to Section 41.1920.

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(b) **Renewal.** Any renewal of a license issued under this chapter shall be pursuant to the same requirements, procedures, provisions and regulations set forth in Sections 41.194, 41.195, 41.196 and 41.197 of this chapter.

(c) **Renewal During Pendency of License Revocation Proceedings.** In the event a renewal application is filed during the pendency of a proceeding to revoke the license, the license shall continue in full force and effect until entry of the final order of the Board terminating revocation proceedings. The application for renewal shall become a part of the pending proceeding, and be subject to all evidence which has been or may thereafter be presented. Failure of the Board to revoke the license shall have the effect of granting renewal of the license. No further notice to the applicant is required, and the Board, or Hearing Officer is authorized to consider and make findings upon such application in accordance with this chapter.

Adopted Ordinance #3484 (1992); Amended Ordinance #3603 (1995);

41.1916 Hours of Operation and Other Restrictions.

No massage clinic shall be open or conduct business between the hours of 10:00 p.m. and 7:00 a.m. Massage clinics shall not sell food or beverages or serve food or beverages to any patrons on the premises of the massage clinic.

Adopted Ordinance #3484 (1992);

41.1917 Prohibited Conduct.

(a) **Prohibited Conduct.** No massage technician and/or any other employees working in a massage clinic, or the clinic's customers, patrons, or guests shall engage in any specified sexual activities upon the premises of the massage clinic. No massage technician and/or other employee of a massage clinic may expose specified anatomical areas in the presence of any patron, customer, or guest. In the course of administering a massage, no massage technician and/or other massage clinic employee may make intentional physical contact with the specified anatomical areas of any customer, patron, or guests. Notwithstanding Section 11.021 of this Code, violation of this section shall not constitute a misdemeanor or an infraction, but such violation shall be grounds for revocation of a massage clinic license.

(b) **Draping.** No massage clinic shall allow massage technicians and/or any other employee working therein to administer any form of massage or come into any form of physical contact with a customer who is either fully or partially undressed, without first draping the customer's specified anatomical areas, if such areas would otherwise be exposed, in accordance with the accepted standards of the American Massage Therapy Association and/or Associated Professional Massage Therapists and Allied Health Practitioners.

Adopted Ordinance #3484 (1992); Amended Ordinance #3518 (1992); Amended #3556 (1993);

41.1918 Inspection and Enforcement.

Officers of the Sheriff's Department, EHS, the Building and Safety Department, and the fire department having jurisdiction over the premises shall have the right to enter any massage clinic during regular business hours as specified in Section 41.1916 above, to make reasonable inspection to ascertain whether the provisions of this

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chapter are being met, provided reasonable and normal business operations shall not be interfered with.

Adopted Ordinance #3484 (1992);

41.1919 Abatement.

Any massage clinic operated, conducted or maintained contrary to the provisions of this chapter shall be, and the same is hereby declared to be unlawful and a public nuisance, and the District Attorney or County Counsel may, in addition to, or in lieu of any other legal or criminal proceedings, commence an action or actions, proceeding or proceedings, for the abatement, removal and enjoinder thereof, in the manner provided by law; and shall take such other steps, and shall apply to such court or courts as may have jurisdiction to grant such relief as will abate or remove such massage clinic and restrain and enjoin any person from operating, conducting or maintaining a massage clinic contrary to the provisions of this chapter.

Adopted Ordinance #3484 (1992);

41.1920 Revocation of License.

(a) Grounds for Revocation. A license issued under this chapter shall be revoked on one or more of the following grounds:

(1) Fraud or Deceit. That the licensee practiced fraud or deceit in obtaining a license under this chapter.

(2) Violation of Chapter. That the licensee or the licensee's employee violated a provision or provisions of this chapter.

(3) Criminal Conviction. That the licensee of the license has been convicted in a court of competent jurisdiction of any offenses described in Section 41. 194(a)(8).

(4) Improperly Maintained Facilities. That the facilities and operations of the massage clinic are not kept in compliance with this chapter as set forth in Section 41.197, and that the holder has failed to promptly remedy any deficiency of which the holder has been notified. For purposes of this subsection, notice shall mean notice given personally or by leaving notice at the licensed premises, or by first class mail, postage prepaid, to the notice address designated by the licensee pursuant to Section 41.194(a)(9).

(5) Employment of Unlicensed Technicians. That the holder has employed, allowed or permitted an unlicensed person to perform massage in the holder's massage clinic.

(6) Error. That the license was issued in error.

(7) Civil Penalties. Assessment of three (3) or more civil penalties as provided by Section 41.1921 during any six (6) month period.

(8) Prohibited conduct. A licensee has been found to have engaged in prohibited conduct in violation of Section 41.1917(a).

(b) Notice of Revocation. Upon determination of grounds to revoke a license, the Clerk of the Board shall cause a "Notice of Revocation" to be mailed by first class, postage prepaid mail, to the notice address designated by the licensee pursuant to Section 41. 194(a)(9).

(c) Waiting Period. A six (6) month waiting period shall be required following the effective date of a license revocation before a new license shall be issued for a

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massage clinic to operate at the same location as the clinic which had its license revoked.

Adopted Ordinance #3484 (1992); Amended Ordinance #3579 (1994);

41.1921 Civil Penalties.

For each violation of the provisions of this chapter, excepting violation of Section 41.1917 pertaining to prohibited conduct, a monetary civil penalty of Five Hundred Dollars (\$500) per *violation* may be assessed in lieu of license revocation.

Adopted Ordinance #3484 (1992);

41.1922 Appeal Rights.

Any person denied a license under this chapter or a licensee whose license has been revoked, and the owner of real property subject to the waiting period required under Section 41.1920(c) may appeal the Clerk of the Board's determination to the Board of Supervisors. Any such appeals must be in writing and must be filed with the Clerk of the Board not more than fifteen (15) days following the Clerk of the Board's deposit into the mails of the Notice of Denial or Revocation pursuant to Sections 41.1910(g) or 41.1920(b). The Board of Supervisors may hear appeals directly or in its sole discretion, may appoint a hearing officer to hear any appeal and make a recommendation to the Board of Supervisors pursuant to Section 12.270, et seq., of the County Code. All decisions of the Board of Supervisors shall be final as to any appeal presented to them.

Adopted Ordinance #3484 (1992); Amended Ordinance #3579 (1994);

41.1923 Validity.

If any section or subsection, clause, or phrase of this chapter is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portion of this chapter.

Adopted Ordinance #3484 (1992);

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Chapter 20

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Sections:

- 41.201 Definitions.
- 41.202 License Requirements.
- 41.203 License Exemptions.
- 41.204 Application Form and Content.
- 41.205 Investigation by Sheriff.
- 41.206 Physical Examinations.
- 41.207 Massage Examination.
- 41.208 License Fee.
- 41.209 Grounds for Denial of License.
- 41.2010 License Denial.
- 41.2011 Licenses Non-Transferable.
- 41.2012 Display of License.
- 41.2013 Duration and Renewal of License.
- 41.2014 Prohibited Conduct.
- 41.2015 Revocation of License.
- 41.2016 Validity.
- 41.2017 Civil Penalties.
- 41.2018 Appeal Rights.

41.201 Definitions.

For the purpose of this chapter, the following terms, phrases, words and their derivations, shall have the meanings set forth herein. Words used in the present tense includes the future tense, plural words include the singular, and singular words include the plural. Words not specifically defined shall be given their common and ordinary meanings. The word "shall" as used herein is mandatory and not merely directory.

(a) "Board of Supervisors" shall refer to the Board of Supervisors of San Bernardino County.

(b) "Clerk" shall refer to the Clerk of the Board of Supervisors of San Bernardino County.

(c) "County" shall mean the County of San Bernardino.

(d) "Health Officer" shall refer to the County of San Bernardino Health Officer, or any person duly authorized to act on his behalf.

(e) "Massage" means any method of pressure on or friction against, or stroking, kneading, rubbing, tapping, pounding, or stimulating the external parts of the body with the hands or other parts of the body, with or without the aid of any mechanical or electrical apparatus or appliances, or with or without supplementary aids such as rubbing alcohol, liniments, antiseptics, oils, powder, creams, lotions, ointments, or other similar preparations commonly used in this practice.

(f) "Massage Clinic" means and includes any massage clinic, parlor, or any room, place or institution where massage is given or administered by a massage technician.

(g) "Massage Technician" means and includes any person who gives, performs or administers to another person a massage as defined in this section.

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(h) "Notice Address" shall be the address designated by the licensee for the mailing of all notices, legal mail, and other written communications from the County to the licensee.

(i) "Person" means and includes person(s), firms, corporations, partnerships, associations or other forms of business organization or group.

(j) "Sheriff" shall refer to the Sheriff of the County of San Bernardino and/or his or her deputies.

(k) "Recognized School" means any school or institution of learning which teaches the theory, ethics, practice, profession, and work of massage, which school or institution has been approved pursuant to California Education Code section 94300 et seq., and applicable regulations. A school offering a correspondence course not requiring actual attendance shall not be deemed a recognized school.

(l) "Specified Anatomical Areas" shall include any of the following human anatomical areas: genitals, pubic regions, anuses or female breasts below a point immediately above the top of the areolae.

(m) "Specified Sexual Activities" shall include all the following:

- (1) The fondling or other erotic touching of specified anatomical areas;
- (2) Sex acts, normal or perverted, including intercourse, oral copulation, or sodomy;
- (3) Masturbation; or
- (4) Excretory functions as part of or in connection with any of the activities set forth in (1) through (3), above.

(n) "Customer" shall include all clients, customers, patrons, guests, and any other person who receives a massage, within an establishment licensed as a massage clinic under Section 41.192 of the San Bernardino County Code.

Adopted Ordinance #3484 (1992); Amended Ordinance #3518 (1992); Amended Ordinance 3556 (1993); Amended Ordinance 3908 (2004);

41.202 License Requirements.

It shall be unlawful for any person to practice, engage in, or carry on the business or activities of a massage technician within the unincorporated area of the County without having a license under this chapter to do so, or without being employed and working at a massage clinic holding a valid license issued pursuant to Chapter 19 of Division 1 of Title 4 of the San Bernardino County Code (commencing at Section 41.191), or without complying with all regulations and requirements as hereinafter contained and set forth. A license to perform services as a massage technician does not authorize the operation of a massage clinic.

Adopted Ordinance #3484 (1992); Amended Ordinance #3518 (1992);

41.203 License Exemptions.

This chapter shall not apply to the following classes of individuals, and no massage technician license shall be required of such persons, while engaged in the performance of the duties of their respective professions:

(a) Physicians, surgeons, chiropractors, osteopaths, or physical therapists who are duly licensed to practice their respective professions in the State of California, and persons working at the place of business under the supervision of a licensed physician, surgeon, chiropractor, osteopath, or physical therapist.

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- (b) Nurses who are registered as such under the laws of the State of California.
- (c) Barbers, beauticians and cosmetologists who are duly licensed under the laws of the State of California, in accordance with the limitations of their licenses.
- (d) Athletic trainers.
- (e) Acupuncturists who are duly certified to practice their profession in the State of California.

Adopted Ordinance #3484 (1992); Amended Ordinance #3556 (1993);

41.204 Application Form and Content.

(a) Required Information. Any person desiring to obtain a massage technician license or renew an existing massage technician license shall make a written application to the Clerk of the Board on a written form to be provided by the Clerk of the Board, who shall promptly refer all complete applications to the Sheriff for investigation. Said application shall include, but not necessarily be limited to the following items:

(1) Name. The applicant's full name and any aliases heretofore used or currently used and current mailing address and residence address.

(2) Addresses. All previous residential addresses of the applicant within the five (5) years immediately preceding submission of the application.

(3) Physical Description. Height, weight, color of eyes and hair of applicant and four (4) current color photographs at least two inches by two inches (2" x 2") in size.

(4) Proof of Age. A certified birth certificate, immigration papers, passport, or current California Driver's License evidencing the fact the applicant is no less than eighteen (18) years of age.

(5) Prior Licenses. A statement of licensee's prior experience in performing massage or any procedure described in Section 41.201(e), including a statement of whether such person has had an application for a massage technician or massage clinic license denied, or has had a massage technician or massage clinic license, and whether any such license has been revoked or suspended, the reason therefore, and a statement setting forth all massage business history or occupation.

(6) Criminal Convictions. A statement of whether the applicant has been convicted of an offense involving conduct which requires registration under the California Penal Code section 290, or conduct which is in violation of the provisions of California Penal code sections 266i, 315, 316, 318 or 647(b), or any felony involving the sale of a controlled substance specified in Sections 11054 through 11058 of the California Health and Safety Code, or has been convicted in another state of an offense, which, if committed or attempted in this state would have been punishable as one or more of the offenses enumerated in this section, or was convicted of one or more other offenses as may be described under Government Code section 51032.

(7) Diploma. A diploma or certificate of graduation from a recognized school, together with a certified transcript or record establishing that the applicant attended a resident course of study of no less than two hundred (200) hours in theory, ethics, practice and profession and work of massage, and setting forth the beginning and ending date of the applicant's course of study. In lieu of the above, the applicant may: (a) submit a certificate from a recognized school in the State of California stating the applicant has completed a resident course of study in massage in another state and has passed the examination required of a graduate from the recognized school in the State of California; or (b) the Clerk of the Board shall waive this requirement upon the applicant's passage of both written and practical tests as required under Section 41.207.

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(8) Notice Address. The address to which all notices and communications from the County to the applicant or licensee shall be directed. It shall be the responsibility of the applicant or licensee to immediately inform the Clerk of the Board, in writing, of any changes of the applicant's or licensee's notice address.

(b) Application Fee. Each application for massage technician license shall be accompanied by nonrefundable investigative fee as specified in Chapter 2 of Division 6 of Title 1 relating to fees.

(c) Incomplete Applications. The Clerk of the Board shall promptly reject any incomplete application which does not meet all requirements of this section, and upon request of the applicant, shall notify the applicant in writing, by first-class mail, postage prepaid, to the address supplied to the clerk by the applicant, of the deficiencies in the application.

(d) Filing for Renewal. No application for renewal of the license shall be accepted earlier than ninety (90) days prior to expiration of the license.

Adopted Ordinance #3484 (1992); Amended Ordinance #3518 (1992);

41.205 Investigation by Sheriff.

(a) Review of Application. The Sheriff shall conduct a reasonable investigation of the matters set forth in the application. The Sheriff shall review the information submitted to the Clerk of the Board and shall review any other documents or materials which are requested by the Sheriff in the course of investigation and which reasonably relate to the licensing requirements of this chapter. The Sheriff shall require the applicant to be fingerprinted and to pay whatever fingerprinting fee is then in effect.

(b) Report on investigation Results. The Sheriff shall promptly report to the Clerk of the Board whether the application and the other documents and materials submitted by the applicant meet all requirements of this chapter and all other applicable laws.

Adopted Ordinance #3484 (1992);

41.206 Physical Examinations.

All applicants for new massage technician licenses and renewals of existing massage technician licenses, within thirty (30) days following the submission of an application, shall obtain a statement from the County Health Officer stating that the applicant within the thirty (30) days immediately prior thereto, has been examined by the Department of Public Health and found to be free of infectious or communicable disease as determined by the County Health Officer. Such examination shall include those medical tests reasonably related to the license sought, and required by the Health Officer. The Health Officer shall require payment of a fee consistent with the fee schedule for the Department of Public Health to cover the cost of the examination, laboratory services, and counseling.

Adopted Ordinance #3484 (1992);

41.207 Massage Examination.

All applicants for a new massage technician license and renewals of expired licenses shall comply with the following requirements. These requirements do not apply if application for renewal is made prior to the license's expiration date:

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(a) Notification of Examination Date. If the Sheriff reports to the Clerk of the Board that a massage technician application and accompanying documents meet the requirements of this chapter and all other applicable laws, the Clerk of the Board shall notify the applicant of the next regularly scheduled massage examination date, and the time and place such examination is to be held. The Clerk of the Board will additionally schedule the applicant to take the massage examination on the next regularly scheduled testing date.

(b) Preparation of Examinations. The Health Officer shall prepare and submit to the Clerk of the Board an examination to be administered to all massage technician applicants. Said examination shall consist of two parts. The first part of the examination shall consist of a written test of the applicant's knowledge of the theory, ethics, and practice of massage relative to aspects of human anatomy, and requirements of the County's Massage Technicians Chapter of the County Code. The second half of the examination shall consist of a practical demonstration of the applicant's ability to administer or perform massage, to be administered before an individual selected by the Health Officer, such person possessing such credentials and being knowledgeable of the theory, ethics, practice, profession, and work of massage and capable of impartially assessing the applicant's practical ability to administer or perform massage. Standards for assessing an applicant's abilities to administer or perform massage, knowledge and professional ethics, shall be based upon accepted standards of the American Massage Therapy Association and/or the Associated Professional Massage Therapists and Allied Health Practitioners. Each applicant will be considered to have passed the massage examination by answering seventy percent (70%) of the written examination questions correctly, and by successfully demonstrating each of the techniques required in the practical examination.

(c) Scheduling of Examinations. The Clerk of the Board shall schedule a massage examination to be held no less frequently than once every January, April, July and October. Results of massage examinations shall be made available to applicants within fourteen (14) days following the date upon which the examination is concluded.

Adopted Ordinance #3484 (1992); Amended Ordinance #3518 (1992);

41.208 License Fee.

Every person practicing, engaging in or carrying on the activities or business of a massage technician shall procure a license and pay a license fee as specified in Chapter 2 of Division 6 of Title 1 relating to fees in addition to all other fees required under this chapter.

Adopted Ordinance #3484 (1992);

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41.209 Grounds for Denial of License.

A massage technician license shall be denied upon the determination of any one of the following:

(a) Prior Criminal Convictions. The applicant, has within ten (10) years immediately preceding the date of the application been convicted of any of the offenses set forth in Section 41.204(a)(6) or has, within the same time frame been convicted of any offense in another state which, if committed or attempted in this State, would have been punishable as one or more offenses enumerated under this section, or is required to register under Section 290 of the Penal Code.

(b) Revocation of Prior Licenses. The applicant has had a massage clinic license or massage technician license revoked for cause within the five (5) year period immediately preceding the date of the application.

(c) Misstated Facts. The applicant has knowingly misstated facts or falsified information on the application.

(d) Inadequate Application. The application has failed to comply with the requirements of Section 41.204.

(e) Failure to Pass Tests. The applicant has failed either the physical examination required pursuant to Section 41.206 or the massage examination required pursuant to Section 41.207.

(f) Operating Without a License. The applicant has conducted, within the five (5) years immediately preceding the application, a business requiring a massage clinic or massage technician license in the unincorporated portion of the County without such a license having been issued by the County.

(g) Prohibited Conduct. An applicant has been found to have engaged in prohibited conduct in violation of Subsection 41.1917(a) and/or 41.2014(a).

Adopted Ordinance #3484 (1992); Amended Ordinance #3556 (1993);

41.2010 License Denial.

Any person denied a license pursuant to this chapter may not perform the acts requiring a license under this chapter. An applicant whose license has been denied may appeal the denial to the Board of Supervisors as set forth in Section 41.2018 of this chapter.

Adopted Ordinance #3484 (1992);

41.2011 Licenses Non-Transferable.

All licenses issued under this chapter are non-transferable.

Adopted Ordinance #3484 (1992);

41.2012 Display of License.

Any person to whom a massage technician license is granted shall display said license prominently in a conspicuous place, capable of being viewed by customers, at every location where the licensed activities are performed or conducted.

Adopted Ordinance #3484 (1992); Amended Ordinance #3518 (1992); Amended Ordinance #3556 (1993);

41.2013 Duration and Renewal of License.

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(a) Term. Each license issued under this chapter shall terminate at the expiration of one (1) year from the date of its issuance unless revoked prior to said termination pursuant to Section 41.2015.

(b) Any renewal of a license issued under this chapter shall be pursuant to the same requirements, procedures, provisions and regulations set forth in Sections 41.204, 41.205, 41.206, and 41.207 (if applicable) of this chapter.

(c) Renewal During Pendency of License Revocation Proceedings. In the event a renewal application is filed during the pendency of a proceeding to revoke the license, the license shall continue in full force and effect until entry of the final order of the Board terminating revocation proceedings. The application for renewal shall become a part of the pending proceeding, and be subject to all evidence which has been or may thereafter be presented. Failure of the Board to revoke the license shall have the effect of granting renewal of the license. No further notice to the applicant is required, and the Board, or Hearing Officer is authorized to consider and make findings upon such application in accordance with this chapter.

Adopted Ordinance #3484 (1992); Amended Ordinance #3603 (1995);

41.2014 Prohibited Conduct.

(a) Prohibited Conduct. No massage technician or that technician's customers, patrons, or guests may engage in any specified sexual activity upon the premises of the massage clinic. No massage technician may expose specified anatomical areas in the presence of any patron, customer, or guest. In the course of administering a massage, no massage technician may make intentional physical contact with specified anatomical areas of any customer, patron, or guest. Notwithstanding Section 11.021 of this code, violation of this section shall not constitute a misdemeanor or an infraction, but such violation shall be grounds for revocation of a massage technician license.

(b) Draping. No massage technician may administer any form of massage or come into any form of physical contact with a customer who is either fully or partially undressed, without first draping the customer's specified anatomical areas, if such areas would otherwise be exposed, in accordance with the accepted standards of the American Massage Therapy Association and/or Associated Professional Massage Therapists and Allied Health Practitioners.

Adopted Ordinance #3484 (1992); Amended Ordinance #3518 (1992);

41.2015 Revocation of License.

(a) Grounds for Revocation. A license issued under this chapter shall be revoked on one or more of the following grounds:

(1) Fraud or Deceit. That the licensee practiced fraud or deceit in obtaining a license under this chapter.

(2) Violation of Chapter. That the licensee violated a provision or provisions of this chapter.

(3) Criminal Conviction. That the licensee has been convicted in a court of competent jurisdiction of any offenses described in Section 41.204(a)(6).

(4) Employment at Unlicensed Clinic. That the licensee has knowingly been employed, allowed or permitted to perform massage at an unlicensed massage clinic.

(5) Error. That the license was issued in error.

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(6) Civil Penalties. That the licensee has been assessed with three (3) or more civil penalties during any six (6) month period.

(7) Prohibited Conduct. A licensee has been found to have engaged in prohibited conduct in violation of Section 41.2014(a).

(b) Notice of Revocation. Upon determination of grounds to revoke a license, the Clerk of the Board shall cause a "Notice of Revocation" to be mailed by first class, postage prepaid mail, to the Notice Address designated by the licensee pursuant to Section 41.204(a)(8).

Adopted Ordinance #3484 (1992); Amended Ordinance #3518 (1992);

41.2016 Validity.

If any section or subsection, clause, or phrase of this chapter is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portion of this chapter.

Adopted Ordinance #3484 (1992);

41.2017 Civil Penalties.

For each violation of the provisions of this chapter, excepting violation of Section 41.2014 pertaining to prohibited conduct, a monetary civil penalty of Five Hundred Dollars (\$500) per violation may be assessed in lieu of license revocation.

Adopted Ordinance #3484 (1992);

41.2018 Appeal Rights.

Any person denied a license under this chapter or licensee whose license has been revoked may appeal in writing to the Board of Supervisors. Said appeal must be in writing and must be filed with the Clerk of the Board not more than fifteen (15) days following the Clerk of the Board's deposit into the mails of the Notice of Denial or Revocation addressed to the licensee at the address identified by the applicant or licensee as the address to which all notices are to be mailed. The Board of Supervisors may hear appeals directly or in its sole discretion, may appoint a hearing officer to hear any appeal and make a recommendation to the Board of Supervisors pursuant to Section 12.270, et seq., of the County Code. All decisions of the Board of *Supervisors* shall be final as to any appeal presented to them.

Adopted Ordinance #3484 (1992);

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Chapter 21

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Sections:

- 41.211 Findings.
- 41.212 Definitions.
- 41.213 License - Required.
- 41.214 Application Form and Content.
- 41.215 Investigation by Sheriff.
- 41.216 Investigation by Planning, Building and Safety, Environmental Health Services and Fire Departments.
- 41.217 Existing Operators.
- 41.218 License Fee.
- 41.219 Grounds for Denial of License.
- 41.2110 License Denial.
- 41.2111 Licenses Non-Transferable.
- 41.2112 Display of License.
- 41.2113 Duration and Renewal of License.
- 41.2114 Inspection and Enforcement.
- 41.2115 Abatement.
- 41.2116 Revocation of License.
- 41.2117 Civil Penalties.
- 41.2118 Appeal Rights.
- 41.2119 Other Regulatory Provisions.
- 41.2120 Validity.

41.211 Findings.

The County of San Bernardino is endeavoring to reduce acts of sexual misconduct, drug trafficking, and "fencing" activities occurring in the unincorporated area of the County, and to improve the business environment in the County. In furtherance of these goals, and to promote the health, safety and welfare of the public, this chapter requires regulatory licenses for the purpose of ensuring that preventive action is taken to curb criminal activities from occurring on the motel business premises. The criminal activities interfere with the safe operation of the motel businesses and the continuance of such activities on the premises will be detrimental to the health, safety and welfare of the public. It is further found that such criminal activities have occurred and are likely to continue to occur on many motel business premises in the County.

Adopted Ordinance #3548 (1993);

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41.212 Definitions.

For the purpose of this chapter, the following terms, phrases, words and their derivations, shall have the meanings set forth herein. Words used in the present tense includes the future tense, plural words include the singular, and singular words include the plural. Words not specifically defined shall be given their common and ordinary meanings. The word "shall" as used herein is mandatory and not merely directory.

(a) BOARD OF SUPERVISORS shall refer to the Board of Supervisors of San Bernardino County.

(b) CLERK OF THE BOARD shall refer to the Clerk of the Board of Supervisors of San Bernardino County.

(c) COUNTY shall mean the unincorporated area of the County of San Bernardino.

(d) DEHS shall refer to the Department of Environmental Health Services of the County of San Bernardino.

(e) MOTEL shall mean a building or buildings each containing one (1) or more guest rooms or dwelling units or combinations thereof designed, used, and intended wholly or in part, for the accommodation of transients for a fee or charge. A MOTEL does not include any jail, hospital, asylum, sanitarium, orphanage, prison, or other building in which human beings are housed and detained under legal restraint.

(f) NOTICE ADDRESS shall be the address designated by the licensee for the mailing of all notices, legal mail, and other written communications from the County to the licensee.

(g) PERSON means and includes person(s), firms, corporations, partnerships, associations or other forms of business organization or group.

(h) SHERIFF shall refer to the Sheriff of the County of San Bernardino and/or his or her deputies.

Adopted Ordinance #3548 (1993);

41.213 License - Required.

It is unlawful for any person, whether as principal or agent, clerk or employee, acting personally or for any other person, or for any corporate entity, or as an officer of any company, partnership or corporation, or otherwise, to commence, manage, or conduct the business of operating a motel, in the unincorporated area of San Bernardino County, without a valid and unsuspended license issued by the Clerk of the Board or without complying with any regulation of such business imposed under or by this chapter. The operation of any business regulated by this chapter without having such a license from the Clerk of the Board to do so, or without complying with any and all regulations of such business required by this chapter, shall constitute a separate violation of this chapter for each and every day that such business is so operated.

Adopted Ordinance #3548 (1993);

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41.214 Application Form and Content.

(a) Required Information. Any person desiring to obtain a license to operate a motel or renew an existing motel license shall make written application to the Clerk of the Board on a written form to be provided by the Clerk, who shall promptly refer all complete applications to the Sheriff for investigation. Said application shall include, but not necessarily be limited to the following items:

(1) Name. The applicant's full name and any aliases heretofore used or currently used and current business address and mailing address and the names and residence addresses of all officers, directors, and each stockholder holding more than ten percent (10%) of the stock, if a corporation, or partners, if a partnership.

(2) Addresses. All previous businesses, and where applicable, the residential addresses of the applicant or applicant's principal officers, directors, and stockholders holding more than ten percent (10%) of stock, if a corporation, or partners, if a partnership, for the five (5) years immediately preceding submission of the application.

(3) Physical Description. Height, weight, color of eyes and hair of applicant or each of the applicant's officers, directors, and each stockholder holding more than ten percent (10%) of stock, if a corporation, or partners, if a partnership, together with at least two (2) current color photographs at least two inches by two inches (2" x 2") in size for each individual.

(4) Proof of Age. A certified birth certificate, immigration papers, passport, or current California Driver's License evidencing the fact the applicant is no less than eighteen (18) years of age.

(5) Business Information. The business, occupation, or employment of the applicant or the applicant's officers, directors, and each stockholder holding more than ten percent (10%) of the stock if a corporation, or partners, if a partnership, for the three (3) years immediately preceding the date of the application. If the applicant is a corporation, the name of the corporation shall be set forth exactly as shown in its Articles of Incorporation and a copy of the Articles of Incorporation attached to the application.

(6) Location for Licensed Activities. Each location where the licensed activities will be conducted.

(7) Prior Licenses. A statement of any business license history relating to motels of the applicant and of applicant's partners, if a partnership, or each of the officers, directors, or persons who hold more than ten percent (10%) of the stock, if a corporation, including a statement of whether such person, in previous operations, has had such license revoked or suspended, the reason therefore, and a statement setting forth all motel business history or occupation subsequent to such suspension or revocation.

(8) Criminal Convictions. A statement of whether the applicant, and any partners, if a partnership, or officers, directors, or persons holding more than ten percent (10%) of the stock, if a corporation, have been convicted of an offense involving conduct which requires registration under California Penal Code § 290, or conduct which is in violation of the provisions of California Penal Code §§ 266i, 315, 316, 318 or 647(b), or any felony involving the sale of a controlled substance specified in §§ 11054 through 11058 of the California Health and Safety Code, or any "fencing" crime, or has been convicted of an offense involving conduct which requires registration under California Health and Safety Code § 11590, or has been convicted in another

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state of an offense, which, if committed or attempted in this state would have been punishable as one or more of the offenses enumerated in this section.

(9) Notice Address. The address to which all notices and communications from the County of San Bernardino to the applicant or licensee shall be directed. It shall be the responsibility of the applicant or licensee to immediately inform the Clerk of the Board, in writing, of any changes of the applicant or licensee's notice address.

(b) License Fee. Each application for a motel license shall be accompanied by the license fee specified in Chapter 2 of Division 6 of Title 1, relating to fees.

(c) Incomplete Applications. The Clerk of the Board shall promptly reject any incomplete application which does not meet all requirements of this section, and shall notify the applicant in writing, by first-class mail, postage prepaid, to the address supplied to the Clerk of the Board by the applicant, of the deficiencies in the application.

(d) Filing for Renewal. No application for renewal of the license shall be accepted earlier than ninety (90) days prior to expiration of the license.

Adopted Ordinance #3548 (1993);

41.215 Investigation by Sheriff.

(a) Review of Application. The Sheriff shall conduct an investigation of the matters set forth in the application. The Sheriff shall review the information submitted to the Clerk of the Board and shall review any other documents or materials which are requested by the Sheriff in the course of investigation and which reasonably relate to the licensing requirements of this chapter. The Sheriff shall require the applicant to be fingerprinted and to pay whatever fingerprinting fee is then in effect. This investigation and review is intended to meet the criminal record access authorization requirements of Penal Code §§ 13300(b)(10) and 11105(b)(10).

(b) Report on Investigation Results. The Sheriff shall promptly report to the Clerk of the Board whether the application and the other documents and materials submitted by the applicant meet all requirements of this chapter and all other applicable laws.

Adopted Ordinance #3548 (1993);

41.216 Investigation by Planning, Building and Safety, Environmental Health Services and Fire Departments.

Prior to the issuance of any license under this chapter, and following approval by the Sheriff, the Clerk of the Board shall submit the motel application for review by the Planning Department, the Department of Environmental Health Services, the Office of Building and Safety, and the fire department having jurisdiction over the premises on which licensed activities are to be conducted, to determine whether the premises comply with applicable laws, including Title 8 of the San Bernardino County Code (Development Code) and the County General Plan. The departments referenced above shall promptly conduct their investigation and shall thereafter promptly render their reports to the Clerk of the Board of Supervisors. The Clerk shall then submit the

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license application for consideration for approval or denial by the County Board of Supervisors.

Adopted Ordinance #3548 (1993);

41.217 Existing Operators.

Each applicant engaged in an operating business on the effective date of this chapter for which a license is required shall be required to file a complete application, but shall not be subject to denial of such license as to that operating business on the basis of information set forth in the application required by § 41.214(a)(4) or (7) or § 41.214(a)(8) as to convictions resulting from arrests prior to the effective date of this chapter.

Adopted Ordinance #3548 (1993);

41.218 License Fee.

Every person engaging in or carrying on the activities or business of a motel shall procure a license and pay a license fee as specified in Chapter 2 of Division 6 of Title 1, relating to fees in addition to all other fees required under this chapter and otherwise in this Code.

Adopted Ordinance #3548 (1993);

41.219 Grounds for Denial of License.

A motel license shall be denied upon the determination of any one of the following:

(a) Criminal Convictions. The applicant, owners, operators, partners if a partnership, or officers, directors, or persons holding more than ten percent (10%) of the stock, if a corporation, or any of them, has within ten (10) years immediately preceding the date of the application been convicted of any of the offenses set forth in § 41.214(a)(8), or have, within the same time frame been convicted of any offense in another state which, if committed or attempted in this state, would have been punishable as one or more offenses enumerated under this section, or is required to register under § 290 of the Penal Code or Health and Safety Code § 11590.

(b) Failure of Planning, Building and Safety, Environmental Health Services or Fire Department to approve application. The application is not approved by one or more of the Planning, Building and Safety, Environmental Health Services or fire departments as required by § 41.216.

(c) Revocation of Prior License. The applicant, owners, operators, partners if a partnership, or officers, directors, or persons holding more than ten percent (10%) of the stock, if a corporation, or any of them, has had a motel license revoked or suspended for cause within the five (5) year period immediately preceding the date of the application.

(d) Misstated Facts. The applicant has knowingly misstated facts or falsified information on the application.

(e) Failure to comply with Application Requirements. The applicant has failed to comply with the requirements of § 41.214.

Adopted Ordinance #3548 (1993);

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41.2110 License Denial.

Any person denied a license pursuant to this chapter may not operate a motel and must cease all operations being conducted that are subject to license issued under this chapter. Upon determination of grounds to deny a license, the Clerk of the Board shall cause a "Notice of Denial" to be mailed by first class, postage prepaid mail, to the notice address designated by the licensee pursuant to § 41.214(a)(9). An applicant whose license has been denied may appeal the denial to the Board of Supervisors as set forth in § 41.2118 of this chapter.

Adopted Ordinance #3548 (1993);

41.2111 Licenses Non-Transferable.

All licenses issued under this chapter are non-transferable both as to location, and as to the person holding the license.

Adopted Ordinance #3548 (1993);

41.2112 Display of License.

Any person to whom a motel license is granted shall display said license in a conspicuous place at every location where the licensed activities are performed or conducted.

Adopted Ordinance #3548 (1993);

41.2113 Duration and Renewal of License.

(a) Term. Each license issued under this chapter shall terminate at the expiration of one (1) year from the date of its issuance unless revoked prior to said termination pursuant to § 41.2116.

(b) Renewal. Any renewal of a license issued under this chapter shall be pursuant to the same requirements, procedures, provisions and regulations set forth in §§ 41.214 and 41.215 of this chapter. If a license has expired, the provisions set forth in § 41.216 shall also apply.

Adopted Ordinance #3548 (1993);

41.2114 Inspection and Enforcement.

Officers of the Sheriff's Department shall have the right to enter any motel during regular business hours to make reasonable inspection to ascertain whether the provisions of this chapter are being met, provided reasonable and normal business operations shall not be interfered with.

Adopted Ordinance #3548 (1993);

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41.2115 Abatement.

Any motel operated, conducted or maintained contrary to the provisions of this chapter shall be, and the same is hereby declared to be unlawful and a public nuisance, and the District Attorney or County Counsel may, in addition to, or in lieu of any other legal or criminal proceedings, commence an action or actions, proceeding or proceedings, for the abatement, removal and enjoinder thereof, in the manner provided by law; and shall take such other steps, and shall apply to such court or courts as may have jurisdiction to grant such relief as will abate or remove such motel and restrain and enjoin any person from operating, conducting or maintaining a motel contrary to the provisions of this chapter.

Adopted Ordinance #3548 (1993);

41.2116 Revocation of License.

(a) Grounds for Revocation. A license issued under this chapter shall be revoked on one or more of the following grounds:

(1) Fraud or Deceit. That the licensee practiced fraud or deceit in obtaining a license under this chapter.

(2) Violation of Chapter. That the licensee or the licensee's employee violated a provision or provisions of this chapter.

(3) Criminal Conviction. That the licensee has been convicted in a court of competent jurisdiction of any offenses described in § 41.214.

(4) Error. That the license was issued in error.

(5) Civil Penalties. Assessment of three (3) or more civil penalties as provided by § 41.2117 during any six (6) month period.

(b) Notice of Revocation. Upon determination of grounds to revoke a license, the Clerk of the Board shall cause a "Notice of Revocation" to be mailed by first class, postage prepaid mail, to the notice address designated by the licensee pursuant to § 41.214(a)(9).

Adopted Ordinance #3548 (1993);

41.2117 Civil Penalties.

For each violation of the provisions of this chapter, a monetary civil penalty of Five Hundred Dollars (\$500.00) per violation may be assessed in lieu of license revocation.

Adopted Ordinance #3548 (1993);

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41.2118 Appeal Rights.

Any person denied a license under this chapter or a licensee whose license has been revoked may appeal in writing to the Board of Supervisors. In the case of a license revocation, the license shall be considered revoked when the time for appeal has run without a valid appeal having been filed or upon decision of the Board of Supervisors that the license is revoked, whichever is later. Said appeal must be in writing and must be filed with the Clerk of the Board not more than fifteen (15) days following the Clerk of the Board's deposit into the mails of the Notice of Denial or Revocation addressed to the licensee at the address identified by the applicant or licensee as the address to which all notices are to be mailed. The Board of Supervisors may hear appeals directly or in its sole discretion, may appoint a hearing officer to hear any appeal and make a recommendation to the Board of Supervisors pursuant to § 12.270 et seq., of the San Bernardino County Code. All decisions of the Board of Supervisors shall be final as to any appeal presented to them.

Adopted Ordinance #3548 (1993);

41.2119 Other Regulatory Provisions.

Compliance with the provisions of this chapter does not exempt a licensee or applicant for license from complying with other requirements of this code relating to motels.

Adopted Ordinance #3548 (1993);

41.2120 Validity.

If any section or subsection, clause, or phrase of this chapter is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portion of this chapter.

Adopted Ordinance #3548 (1993);

CONSUMER PROTECTION BUSINESS PERMIT

****NOTE: TWO ORDINANCES WERE INADVERTENTLY ADOPTED FOR CHAPTER 22. A CLEANUP ORDINANCE WILL BE FORTHCOMING TO CORRECT THE DUPLICATION OF CHAPTER 22.**

ORDINANCE 3669

Chapter 22

CONSUMER PROTECTION BUSINESS PERMIT

Sections:

- 41.2201 Purpose and Authority.
- 41.2202 Definitions.
- 41.2203 Permit Requirement.
- 41.2204 Duration and Transferability of Permit.
- 41.2205 Posting of Permit.
- 41.2206 Fees.
- 41.2207 Violations.
- 41.2208 Suspension or Revocation of Permit.
- 41.2209 Appeal of Suspension or Revocation of Permit.
- 41.2210 Restoration of Permit.
- 41.2211 Penalties.

41.2201 Purpose and Authority.

The purpose of this Chapter is to establish, pursuant to California Business and Professions Code section 12103.5 and California Code of Regulations, title 4, section 4500 et. seq., permitting requirements to identify, monitor and impose criminal penalties on those persons commercially engaged in the packaging of commodities in advance of sale and those persons utilizing for commercial purposes automated systems for retail commodity pricing referred to as "scanners."

Ordinance 3669 (1996);

41.2202 Definitions.

For the purposes of this Chapter, the following words and phrases are defined and shall be construed as having the following meaning:

- (a) "Department" shall mean the Department of Agriculture/Weights and Measures of the County of San Bernardino.
- (b) "Person" shall mean any person, firm, corporation, business or association.
- (c) "Sell" includes barter, exchange, trade, keep for sale, offer for sale or expose for sale in any of their variant forms.
- (d) "Packer" shall mean any person engaged in wrapping or packaging of a commodity prior to and for the purpose of sale wherein the item wrapped or packaged is sold on the basis of weight, count, volume or area.
- (e) "Scanner" shall mean any automated electronic system which determines, by means of coded information, the price of an item.

CONSUMER PROTECTION BUSINESS PERMIT

(f) "Location" shall mean any room, enclosure, building, vehicle, space or area at a single place.

(g) "Commercial Purpose" includes any sale of a commodity or thing by a person.

Ordinance 3669 (1996);

41.2203 Permit Requirement.

(a) It shall be unlawful for any packer to sell any commodity or thing or for a person to use a scanner for commercial purposes without first obtaining a permit in accordance with the provisions of this Chapter. A separate permit shall be required for each location.

(b) Permits shall be issued upon written application on a form furnished by the Department and payment of fees by the applicant.

(c) Packers of less than 10,000 packages per year shall be exempt from permit requirements.

41.2204 Duration and Transferability of Permit.

(a) All permits shall be valid for up to one year and expire on June 30th of each year. Renewal of a permit shall be made in a manner similar to the issuance of the original permit.

(b) Permits shall not be transferable between persons or locations.

(c) Permittees shall not lease, sublet, subcontract, or in any manner allow any other person or entity to engage in activities regulated under the permit, except as an employee of the permittee.

Ordinance 3669 (1996);

41.2205 Posting of Permit.

At each location, the applicable permit shall be posted in a conspicuous place in or on the premises in respect to which it is issued and shall be exhibited to any official of the Department.

Ordinance 3669 (1996);

41.2206 Fees.

The permit fee for any person operating as a packer or utilizing a scanner shall be as established by Chapter 2 of Division 6 of Title 1 of the San Bernardino County Code.

Ordinance 3669 (1996);

41.2207 Violations.

CONSUMER PROTECTION BUSINESS PERMIT

It shall be unlawful for any person or any permittee, employee or agent thereof to do any of the following:

- (a) Pack or use scanners without a current permit.
- (b) Fail to post the permit as required.
- (c) Fail to comply with the provisions of Division V of the California Business and Professions Code or Division 9 of Title 4 of the California Code of Regulations.

Ordinance 3669 (1996);

41.2208 Suspension or Revocation of Permit.

(a) The permit of any person found in violation of any provisions of Division V of the California Business and Professions Code or of section 41.2207 of this Chapter more than three times in a twelve-month period shall be suspended until restored pursuant to section 41.2210 of this Chapter.

(b) The permit of any person found in violation of the provisions of Division V of the California Business and Professions Code or section 41.2207 of this Chapter within six months of having said permit restored pursuant to section 41.2210 of this Chapter, shall be revoked.

Ordinance 3669 (1996);

41.2209 Appeal of Suspension or Revocation of Permit.

Upon the occurrence of any grounds for the suspension or revocation of a permit, the Agricultural Commissioner/Sealer may suspend or revoke the permit. Notice of this action to suspend or revoke a permit shall be served upon the permittee either by personal service or by registered mail to the address listed on the permit. The permittee may, within ten (10) days after the service or receipt of the notice, demand a hearing as to why the permit should not be continued in full force and effect. The hearing shall be before the Agricultural Commissioner/Sealer or his or her designee and be conducted according to the procedures for other administrative hearings set forth in Business and Professions Code section 12015.3.

Ordinance 3669 (1996);

41.2210 Restoration of Permit.

A suspended or revoked permit shall be restored or reissued when the permittee has corrected all violations and is in full compliance with Business and Professions Code, Division V and with section 41.2207 of this Chapter.

Ordinance 3669 (1996);

CONSUMER PROTECTION BUSINESS PERMIT

41.2211 Penalties.

(a) Unless otherwise provided, any person violating any provision of this Chapter shall be guilty of an infraction or misdemeanor as hereinafter specified.

(b) Each day or portion thereof such violation is in existence shall be a new and separate offense.

(c) Any person so convicted shall be:

(1) guilty of an infraction offense and punished by a fine not exceeding one hundred dollars (\$100.00) and not less than fifty dollars (\$50.00) for a first offense;

(2) guilty of an infraction offense and punished by a fine not exceeding two hundred dollars (\$200.00) and not less than one hundred dollars (\$100.00) for a second offense.

(3) guilty of a misdemeanor for the third and any additional offenses and punished by a fine not exceeding one thousand dollars (\$1,000.00) and not less than five hundred dollars (\$500.00) or six months in jail, or both.

(d) Notwithstanding the above, a first or second offense may be charged and prosecuted as a misdemeanor.

(e) Payment of any fine or service of a jail sentence shall not relieve a person from the responsibility of correcting the condition resulting from the violation.

(f) In addition to the above penalties, the court may order that the guilty party reimburse the County for all of its costs of investigating, analyzing and prosecuting the enforcement action against the guilty party. The court shall fix the amount of any such reimbursement upon submission of proof of such costs by the County.

(g) In addition to all other remedies provided by this Chapter or State law, in the event of continuing violation of the provisions of this Chapter, the Department may seek injunctive relief to restrain further violation.

Ordinance 3669 (1996);

ISSUANCE OF FILMING PERMITS AND FEES

ORDINANCE 3704

Chapter 22

ISSUANCE OF FILMING PERMITS AND FEES

Sections:

- 41.2201 Purposes.
- 41.2202 Authority.
- 41.2203 Permits Required.
- 41.2204 Exemptions: Fees/Charges and Permits.
- 41.2205 Film Office.
- 41.2206 Notification of District.
- 41.2207 Film Office Liaison Functions
- 41.2208 County Permits, Fees, Costs and Reimbursements.
- 41.2209 Billing Procedures.
- 41.2210 Indemnification.
- 41.2211 Insurance.
- 41.2212 Film Credits
- 41.2213 Other Regulatory Provisions.

41.2201 Purposes.

Film, television, and commercial production play an important role in the economy of San Bernardino County that should be encouraged. This Chapter will further such activities within the County by authorizing a centralized Film Office that will coordinate Filming Permits and fee processing and encourage filming activity.

Ordinance 3704 (1997);

41.2202 Authority.

Pursuant to Sections 14999.20, 14999.21, 15335.22(d), 15338, and 65850.1(a) of the Government Code of the State of California, the Board of Supervisors has authority to adopt an ordinance governing the issuance of permits to engage in the use of property for occasional commercial filming on location, establishing a centralized County permit processing office, and authorizing use of a permit application form.

Ordinance 3704 (1997);

41.2203 Permits Required.

Except as set forth herein, a Filming Permit shall be required for all commercial filming done in the unincorporated area of San Bernardino County, or when facilities are used that belong to, are managed by, or are under the jurisdiction of the County of San Bernardino. Filming Permits shall, unless otherwise specified herein, be required for all visual recording processes that record motion.

Ordinance 3704 (1997);

41.2204 Exemptions: Fees/Charges and Permits.

- (a) Full Exemptions.

ISSUANCE OF FILMING PERMITS AND FEES

The following uses are exempt from the requirement of obtaining a Filming Permit, but must otherwise comply with all applicable laws, rules, and regulations:

- (1) Activity at an existing approved film studio. A Filming Permit will only be required if filming is done away from a permanent facility approved for such use;
- (2) Filming Activity for private or family use;
- (3) Filming Activity for use in criminal or civil proceedings;
- (4) News Media Filming Activity;
- (5) Filming Activity for educational and governmental purposes;
- (6) Local origination programs for cable television systems franchised with the County; and
- (7) Filming of emergencies including, but not limited to, fire, floods and emergency police activities.

(b) Partial Exemptions:

The following users are required to apply for a Filming Permit and to pay all fees, costs and reimbursements except for the Filming Permit Processing Fee referred to in Section 41.2208(a) and set forth in Section 16.0210A of the San Bernardino County Code, from which they are exempt.

- (1) Charitable Filming Activity; and
- (2) Filming Activity by a student who has submitted a letter written on school letterhead by a school administrator or instructor stating that the applicant is currently enrolled in a recognized U. S. educational institution and that the film shall not be commercially released in any manner whatsoever.

Ordinance 3704 (1997);

41.2205 Film Office.

The Board shall designate a liaison between persons seeking Filming Permits ("Permittees") and the County, which liaison shall be referred to as the "Film Office." In addition, the Film Office will promote filming activities in San Bernardino County, will assist production companies in finding filming locations within San Bernardino County, will maintain a location photograph library, will coordinate with local businesses for production company support, and will serve as a marketing agent for the County.

Ordinance 3704 (1997);

41.2206 Notification of District

Upon the filing of an application for a Filming Permit, the Film Office will give written notification of the filing of the application to the County Supervisor for the district wherein the filming will be done.

Ordinance 3704 (1997);

ISSUANCE OF FILMING PERMITS AND FEES

41.2207 Film Office Liaison Functions

The Film Office will act as liaison between Permittees and the County for obtaining Filming Permits and paying County fees and other costs. Each County department shall have final approval or denial authority for use of the County properties for which it is responsible, and for issuance of permits for which it is responsible. When necessary, the Film Office may facilitate direct contact between Permittees and any County department or employee. The Film Office shall remit to the County all fees, costs and reimbursements collected on behalf of the County.

(a) Facilities Management - Facilities Management is responsible for scheduling the use of County owned or leased properties. Costs and fees charged by Facilities Management are set forth hereafter.

(b) County Fire Department - Permittees shall comply, at all times, with the Uniform Fire Code. On behalf of the County Fire Department, the Film Office will accept applications for fire safety permits. The Film Office will remit all County Fire Department fees and gather the required information and documentation for submittal to the County Fire Department. Once all requested information is received by the County Fire Department, the application will be reviewed. When approved, fire safety permits shall be delivered by the County Fire Department to the Film Office. The Film Office will then forward the fire safety permits to the Permittee. The hard copy of the fire safety permit will be maintained on file with the County Fire Department.

At the discretion of the County Fire Department, an event may require standby fire department personnel or equipment for public safety. These costs shall be paid as set forth hereafter.

(c) Sheriff's Department -

(1) Sheriff's Facilities and Services.

The Film Office shall coordinate the assistance of the Sheriff's Office in filming activities through the Organizational Information Division of the Sheriff's Department. The Sheriff's Department shall charge Permittees for use of Sheriff's equipment, facilities and services, and for reimbursement of the costs therefor.

(2) Explosive Control Unit.

On behalf of the San Bernardino County Sheriff's Explosive Control Unit, the Film Office will accept applications for renewal and reactivation of explosive permits for special effects operators and will collect, and remit to the Sheriff's Department, all applicable fees. Applicants for new explosive permits will be required to present themselves in person at the Sheriff's Department for photographs and fingerprinting. The Film Office will remit all explosive permit fees to the San Bernardino County Sheriff's Department and forward the required documentation to the Sheriff's Explosive Control Unit. A photo copy of the applicants' pyrotechnic/special effects operator's license must accompany the application.

Applicants for explosive permits, and holders thereof, shall at all times comply with all laws, regulations and ordinances concerning explosives and pyrotechnic devices including, but not limited to, Division 11 of the Health and Safety Code (Health and Safety Code Section 12000, et seq.), regulations promulgated by the State Fire Marshal, and Section 45.011 of the San Bernardino County Code.

(d) Department of Public Health, Division of Environmental Health Services - The Division of Environmental Health Services of the County will provide assistance to the Film Office as needed. All filming sites shall be kept in a safe and sanitary condition. All trash shall be contained in proper receptacles and disposed of by a San Bernardino County permitted refuse hauler. All pumping of portable toilets must be done by a liquid

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waste hauler with a permit from San Bernardino County. Food vehicles and food caterers shall be approved and permitted by Environmental Health Services prior to filming, if food is to be provided on site, unless otherwise agreed by Environmental Health Services. To expedite this permitting procedure, the Film Office will gather the required information and documentation for submittal to Environmental Health Services. All required permit fees will be paid to the Film Office and forwarded to Environmental Health Services.

(e) Community and Cultural Resources Departments (Parks and Museum) - The Film Office will coordinate filming activity involving Parks or the County Museum through the Community and Cultural Resources Department. The Film Office will accept applications for filming activity and gather all required documentation and information from the applicant. A completed application and supporting documentation will be submitted by the Film Office to the Community and Cultural Resources Department for its review and approval. The Community and Cultural Resources Department will determine if any park personnel will be required to be present during filming. The Community and Cultural Resources Department will forward approved permits to the Film Office and maintain a hard copy on file until such time as it may be destroyed pursuant to law.

(f) Transportation/Flood Control Department - On behalf of the Transportation/Flood Control Department, the Film Office will accept applications and fees for filming activity and for road encroachment permits. The Film Office will obtain all necessary information from a Permittee and supply it to the Department. The Film Office will pay to the Transportation/Flood Control Department all fees and other monies collected from a Permittee. If the activity must be approved by the California Highway Patrol, a permit will not be issued until proof of such approval is submitted to the Transportation/Flood Control Department, directly or via the Film Office. When approved, the permit will be forwarded to the Film Office which will then forward the permit to the Permittee. The Transportation/Flood Control Department will retain the hard copy on file until such time as it may be destroyed pursuant to law.

(g) Airports Department - On behalf of the San Bernardino County Airports Department, the Film Office will accept applications and fees for filming activity on County controlled airports. The Film Office will forward all required fees to the Airports Department, collect all necessary information and documentation from the Permittee, and provide it to the Airports Department. When approved by the Airports Department, the permit will be forwarded to the Film Office, which will then forward it to the Permittee. A hard copy of the permit will be maintained on file with the Airports Department until such time as it may be destroyed pursuant to law.

(h) Building & Safety Division - When applicable, the Building and Safety Division will review and approve Permit applications that involve the construction of new sets, or the physical alteration of existing buildings within the County unincorporated areas. This activity will be coordinated through the Film Office, which will accept applications from Permittees and will pay to the Building and Safety Division any fees that the Film Office collects on its behalf. The Film Office may refer Permittees to the Building and Safety Division when direct contact would expedite processing the permit application.

(i) Special Districts Department - On behalf of the Special Districts Department, the Film Office will accept applications and fees for filming activities in areas under the jurisdiction of, or facilities managed or administered by the Special Districts Department including, but not limited to, Board-governed special districts, County Service Areas, Lake Arrowhead Dam, and other facilities. Such facilities include various roads, cemeteries, parks and recreation areas, zoos, open space, water and sanitation

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facilities and other facilities throughout San Bernardino County. In addition to fees for use of areas, facilities, and services, Permittees shall pay a non-refundable fee for temporary use or closure of a road, the excavation of a trench, and the placement of meters and locks on hydrants used to provide water for filming purposes.

The Film Office will coordinate construction and safety inspections, where necessary, by the Special Districts Department and by the Building and Safety Division of any construction by Permittee acting under the jurisdiction of the Special Districts Department.

The Film Office will obtain all necessary information from the Permittee and supply it to the Special Districts Department. The Film Office will pay to the Special Districts Department all fees and other monies collected from the Permittee on behalf of the Special Districts Department. The Special Districts Department will retain the hard copy of any permits it may issue until such time as the permits may be destroyed pursuant to law.

Ordinance 3704 (1997);

41.2208 County Permits, Fees, Costs and Reimbursements.

Prior to the issuance of a Permit, the Permittee must pay the applicable fees and deposits set forth herein, and in other applicable laws, ordinances, rules and regulations. Such fees shall be collected by the Film Office and paid over to the appropriate County Department, except for the Film Permit Processing Fees, which shall be retained by the Film Office.

(a) Filming Permit Processing Fees - Filming Permit Processing Fees are set forth in Section 16.0210A of the San Bernardino County Code. Such fees shall be paid to the Film Office which shall keep them for payment of its services.

(b) County Fire Department Fees - In the event that any fire safety permits are required, they shall be obtained through the Film Office from the local fire department or County Fire Department, as appropriate. The County Fire Department will distribute information to, and coordinate actions with, local fire departments, as appropriate.

At the discretion of the fire department with jurisdiction over the area where the filming will be done, an event may require fire department personnel or equipment for public safety. These costs shall be paid prior to the event. The County Fire Department shall charge the fees for fire safety permits set forth in Section 16.0211A(c) of the San Bernardino County Code, and shall charge for necessary fire department personnel or equipment pursuant to the Uniform Fire Code, as amended. Such fees may be paid to the Film Office, which will remit them to the appropriate fire agency.

(c) Sheriff's Department - The Sheriff's Department may negotiate directly, or through the Film Office, for use of Sheriff's Equipment, facilities and services, and for reimbursement of the costs thereof. In the event that a Class I Explosive is to be utilized for any part of the Permittee's Filming Activity, an Explosive Permit must be obtained from the San Bernardino County Sheriff's Department. Fees charged by the Sheriff's Department are set forth in Section 16.0226 of the San Bernardino County Code. Unless otherwise directed by the Film Office, the fees shall be paid by the Permittee to the Film Office prior to issuance of the permit. All fees shall be paid by the Film Office to the Sheriff's Office.

(d) Road Encroachment Permit, Trench Excavation, Flood Control Permits If the filming activity will involve the temporary use or closure of a County road or highway, excavation of a trench, or use or disturbance of a flood control channel, a non-

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refundable permit must be obtained through the Film Office from the San Bernardino County Transportation and flood Control Department. These permits must be obtained even if the use is otherwise exempt pursuant to Section 41.2204. Fees for road use or closure, and fees for trench excavation are respectively set forth in Sections 16.0225(a) and (b) of the San Bernardino County Code. Fees concerning use, access and disturbance of flood control channels, and related matters, are set forth in Section 16.0212 of the San Bernardino County Code.

(e) Environmental Health Services - If, during the filming, the Permittee operates a food concession, the Permittee shall pay the fees set forth in Section 16.213(b)(9) and (10) of the San Bernardino Code, as amended. If a subcontractor of Permittee, or an independent contractor, provides a food concession, such person, and not the Permittee, shall be responsible for payment of the fees set forth in Section 16.213(b)(5) and (6) of the San Bernardino County Code, as amended.

(f) Airport Use Fees - The Film Office shall charge, collect, and remit to the Airports Department the fees set forth in Section 16.022 of the San Bernardino County Code.

(g) Museum Fees - If the services or facilities of the County Museum are used by the Permittee, the Permittee shall pay the fees and charges set forth in Section 16.0218 of the San Bernardino County Code, as amended, to the Film Office which shall remit them to the Community and Cultural Resources Department on behalf of the Museum.

(h) Regional Park Fees - If using the facilities or services of the Regional Parks, Permittee shall pay the fees and charges set forth in Section 16.0223 of the San Bernardino County Code, as amended, or such other fees and charges as may be charged by the Community and Cultural Resources Department. The fees and charges shall be paid to the Film Office, which shall immediately remit them to the Community and Cultural Resources Department.

(i) Special Districts Department - The Film Office shall charge, collect, and immediately remit to the Special Districts Department the fees set forth in Section 16.0226A of the San Bernardino County Code, as amended, and such other fees and charges as may be charged by the Special Districts Department.

The Film Office shall also collect any fees, including fees for coordinated permits, that the Permittee may need for water and/or sanitation services within the jurisdiction of the Special Districts Department. Additional fees may be collected for meters and locks that may be necessary for the use of hydrants to provide water for uses other than that of the County Fire Department.

(j) Other County Departments - If Permittee uses county services, or property owned, leased, or managed by a county department other than those listed herein, Permittee shall pay the Film Office such charges as are provided in the San Bernardino County Code, as amended, or that may be required by the department directly or through the Film Office. The Film Office shall collect such charges and forward them to the appropriate Department.

Ordinance 3704 (1997);

41.2209 Billing Procedures.

All projected fees, reimbursements and costs must be paid to the Film Office prior to the issuance of a Permit. Upon completion of the project for which the Permit was issued, reimbursements and costs actually incurred shall be determined. Overpayments will be returned by the Film Office within 30 days from the conclusion of

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the activity. Underpayments will be billed to Permittee by the Film Office and are due within 30 days of the day the billing is mailed. Should the underpayments not be timely paid, the affected County Department may pursue collection of the underpayment.

Ordinance 3704 (1997);

41.2210 Indemnification.

The Permittee agrees, as a condition of receiving a Permit, to indemnify, defend and hold harmless the County of San Bernardino, the San Bernardino County Flood Control District and all Districts, County Service Areas, and other entities governed by the San Bernardino County Board of Supervisors along with their authorized officers, employees, agents and volunteers from any and all claims, actions, losses, damages, and/or liability arising out of the filming activity from any cause or source whatsoever, including, but not limited to, the acts, errors or omissions of any person, and for any costs or expenses incurred by any of the aforementioned entities and individuals on account of any claim therefor, except where prohibited by law. Permittee further agrees to be responsible for payment of any medical charges incurred at any County facility as a result of injury to any person arising out of the filming or still photography activity.

Ordinance 3704 (1997);

41.2211 Insurance.

(a) Types of Insurance - Without in any way affecting the indemnity provided herein, and in addition thereto, the Permittee shall, at its sole expense, maintain at all times the following types of insurance with limits as shown:

(1) Comprehensive General and Automobile Liability Insurance - This coverage to include contractual coverage and automobile coverage for owned, hired and non-owned vehicles. The policy shall have combined single limits for bodily injury and property damage of not less than one million dollars (\$1,000,000).

(2) Pyrotechnic Liability Insurance - In the event that a Class I Explosive permit is to be utilized for any part of the Permittee's Filming Activity, the Permittee will be required to obtain specific pyrotechnic coverage at an amount to be determined by the County Risk Manager as suitable for the scope of the planned pyrotechnic/special effects explosion(s). The minimum requirement for any pyrotechnic coverage policy shall be combined single limits for bodily injury and property damage of not less than two million dollars (\$2,000,000) per occurrence.

(3) Aircraft Liability Insurance - (when applicable), with combined single limits of \$10,000,000 for bodily injury (including passengers), death and property damage.

(4) Workers' Compensation - A program of Workers' Compensation insurance or a state-approved Self-Insurance Program in an amount and form to meet all applicable requirements of the Labor Code of the State of California, including Employer's Liability with \$250,000 limits, covering all persons providing services on behalf of the Permittee and all risks to such persons. Permittee shall also require all subcontractors to maintain such a program of Workers' Compensation insurance for all persons providing services on behalf of the subcontractors.

(b) Policy Provisions:

(1) Additional Named Insured - All policies, except for Workers' Compensation policies, shall contain additional endorsements naming the County and its officers,

ISSUANCE OF FILMING PERMITS AND FEES

employees, agents and volunteers as additional named insured with respect to liabilities arising out of Permittee's Filming Activities.

(2) Waiver of Subrogation Rights - Permittee shall require the carriers of the above required coverages to waive all rights of subrogation against the County, its officers, employees, agents, volunteers, contractors and subcontractors.

(3) Policies Primary and Non-Contributory - All policies required above are to be primary and non-contributory with any insurance or self-insurance programs carried or administered by the County.

(c) Proof of Coverage - Permittee shall, prior to issuance of the Filming Permit, furnish certificates of insurance to the Film Office evidencing the insurance coverage, including endorsements, above required, which certificates shall provide that such insurance shall not be terminated or expire, prior to expiration of the Filming Permit, without thirty (30) days written notice to the Film Office, and Permittee shall maintain such insurance throughout the period of the Permit.

(d) Insurance Review - The above insurance requirements are subject to periodic review by the County. The County's Risk Manager is authorized, but not required, to reduce or waive any of the above insurance requirements whenever the Risk Manager determines that any of the above insurance is not available, is unreasonably priced, or is not needed to protect the interests of the County. In addition, if the Risk Manager determines that heretofore unreasonably priced or unavailable types of insurance coverage or coverage limits become reasonably priced or available, the Risk Manager is authorized, but not required, to change the above insurance requirements to require additional types of insurance coverage or higher coverage limits, provided that any such change is reasonable in light of past claims against the County, inflation, or any other item reasonably related to the County's risk.

41.2212 Film Credits.

The County of San Bernardino requests to be listed in the film credits.

Ordinance 3704 (1997);

41.2213 Other Regulatory Provisions.

Compliance with the provisions of this chapter does not exempt a Permittee from compliance with other requirements of this Code, with the laws of the State of California, and with the laws of the United States.

Ordinance 3704 (1997);

ISSUANCE OF FILMING PERMITS AND FEES

****NOTE: THE SECTIONS IN CHAPTER 23 WERE INCORRECTLY DESIGNATED, THEREFORE, A CLEANUP ORDINANCE WILL BE FORTHCOMING TO MAKE THAT CORRECTION.**

Chapter 23

ISSUANCE OF STILL PHOTOGRAPHY PERMITS AND FEES

Sections:

- 41.2201 Purposes.
- 41.2202 Authority.
- 41.2203 Permits Required.
- 41.2204 Exemptions: Fees/Charges and Permits.
- 41.2205 Film Office.
- 41.2206 Notification of District.
- 41.2207 Film Office Liaison Functions
- 41.2208 County Permits, Fees, Costs and Reimbursements.
- 41.2209 Billing Procedures.
- 41.2210 Indemnification.
- 41.2211 Insurance.
- 41.2212 Film Credits
- 41.2213 Other Regulatory Provisions.

41.2201 Purposes.

Still photography plays an important role in the economy of San Bernardino County that should be encouraged. This Chapter will further such activities within the County by authorizing a centralized Film Office that will coordinate the issuance of Still Photography Permits and fee processing and encourage such activity.

Ordinance 3712 (1998);

41.2202 Authority.

Pursuant to Sections 14999.20, 14999.21, 15335.22(d), 15338, and 65850.1(a) of the Government Code of the State of California, the Board of Supervisors has authority to adopt an ordinance governing the issuance of Still Photography Permits to engage in occasional commercial still photography on location, establishing a centralized County permit processing office, and authorizing use of a permit application form.

Ordinance 3712 (1998);

41.2203 Permits Required.

Except as set forth herein, a Still Photography Permit is required unless a Filming Permit has already been obtained. However a Still Photography Permit shall only be required if the photographic activity is done in the unincorporated area of San Bernardino County; uses lands that belong to, are managed by, or are under the jurisdiction of the County of San Bernardino; and otherwise requires the issuance of a permit by the County of San Bernardino.

ISSUANCE OF FILMING PERMITS AND FEES

All other uses for commercial or non-commercial purposes are not required to obtain a permit even if the photographer uses tripods, flashbulbs, strobe lights, portable view cameras, or interchangeable lenses.

Ordinance 3712 (1998);

41.2204 Exemptions From Fees and Still Photography Permits

(a) Full Exemptions

The following uses are exempt from the requirement of obtaining a Still Photography Permit, but must otherwise comply with all applicable laws, rules, and regulations:

(1) Still photography at an existing approved film studio. A Still Photography Permit will only be required if photography is done away from a permanent facility approved for such use;

(2) Still photography for private or family use;

(3) Still photography for use in criminal or civil proceedings;

(4) News media still photography;

(5) Still photography for educational and governmental purposes;

(6) Still photography for use in local origination programs for cable television systems franchised by the County;

(7) Still photography of emergencies including, but not limited to, fire, floods and emergency police activities, and

(8) Still photography on private or public land, except when the issuance of some other permit from the County is otherwise required.

(b) Partial Exemptions:

The following users are required to apply for a Still Photography Permit and to pay all fees, costs and reimbursements except for the Still Photography Permit Processing Fee referred to in Section 41.2208(a) and set forth in Section 16.0210A of the San Bernardino County Code, from which they are exempt:

(1) Still photography for use by a charity; and

(2) Still photography by a student who has submitted a letter written on school letterhead by a school administrator or instructor stating that the student is currently enrolled in a recognized U. S. educational institution and that the still photographs shall not be commercially released in any manner whatsoever.

Ordinance 3712 (1998);

41.2205 Film Office.

The Board shall designate a liaison between persons seeking Still Photography Permits ("Permittees") and the County, which liaison shall be referred to as the "Film Office." In addition, the Film Office will promote still photography in San Bernardino County, will assist production companies in finding suitable locations within San Bernardino County, will maintain a location photograph library, will coordinate with local businesses for production company support, and will serve as a marketing agent for the County.

Ordinance 3712 (1998);

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41.2206 Notification of District

Upon the filing of an application for a Still Photography Permit, the Film Office will give written notification of the filing of the application to the County Supervisor for the district wherein the photography will be done.

Ordinance 3712 (1998);

41.2207 Film Office Liaison Functions

The Film Office will act as liaison between Permittees and the County for obtaining Still Photography Permits and paying County fees and other costs. Each County department shall have final approval or denial authority for use of the County properties for which it is responsible, and for issuance of permits for which it is responsible. When necessary, the Film Office may facilitate direct contact between Permittees and any County department or employee. The Film Office shall remit to the County all fees, costs and reimbursements collected on behalf of the County.

(a) Facilities Management - Facilities Management is responsible for scheduling the use of County owned or leased properties. Costs and fees charged by Facilities Management are set forth hereafter.

(b) County Fire Department - Permittees shall comply, at all times, with the Uniform Fire Code. On behalf of the County Fire Department, the Film Office will accept applications for fire safety permits. The Film Office will remit all County Fire Department fees and gather the required information and documentation for submittal to the County Fire Department. Once all requested information is received by the County Fire Department, the application will be reviewed. When approved, fire safety permits shall be delivered by the County Fire Department to the Film Office. The Film Office will then forward the fire safety permits to the Permittee. The hard copy of the fire safety permit will be maintained on file with the County Fire Department.

At the discretion of the County Fire Department, an event may require standby fire department personnel or equipment for public safety. These costs shall be paid as set forth hereafter.

(c) Sheriff's Department -

(1) Sheriff's Facilities and Services.

The Film Office shall coordinate the assistance of the Sheriff's Office in photographic activities through the Organizational Information Division of the Sheriff's Department. The Sheriff's Department shall charge Permittees for use of Sheriff's equipment, facilities and services, and for reimbursement of the costs therefor.

(2) Explosive Control Unit.

On behalf of the San Bernardino County Sheriff's Explosive Control Unit, the Film Office will accept applications for renewal and reactivation of explosive permits for special effects operators and will collect, and remit to the Sheriff's Department, all applicable fees. Applicants for new explosive permits will be required to present themselves in person at the Sheriff's Department for photographs and fingerprinting. The Film Office will remit all explosive permit fees to the San Bernardino County Sheriff's Department and forward the required documentation to the Sheriff's Explosive Control Unit. A photo copy of the applicants' pyrotechnic/special effects operator's license must accompany the application.

Applicants for explosive permits, and holders thereof, shall at all times comply with all laws, regulations and ordinances concerning explosives and pyrotechnic devices including, but not limited to, Division 11 of the Health and Safety Code (Health and

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Safety Code Section 12000, et seq.), regulations promulgated by the State Fire Marshal, and Section 45.011 of the San Bernardino County Code.

(d) Department of Public Health, Division of Environmental Health Services - The Division of Environmental Health Services of the County will provide assistance to the Film Office as needed. All sites used for still photography shall be kept in a safe and sanitary condition. All trash shall be contained in proper receptacles and disposed of by a San Bernardino County permitted refuse hauler. All pumping of portable toilets must be done by a liquid waste hauler with a permit from San Bernardino County. Food vehicles and food caterers shall be approved and permitted by Environmental Health Services, if food is to be provided on site, unless otherwise agreed by Environmental Health Services. To expedite this permitting procedure, the Film Office will gather the required information and documentation for submittal to Environmental Health Services. All required permit fees will be paid to the Film Office and forwarded to Environmental Health Services.

(e) Community and Cultural Resources Departments (Parks and Museum) - The Film Office will coordinate filming activity involving Parks or the County Museum through the Community and Cultural Resources Department. The Film Office will accept applications for Still Photography Permits and gather all required documentation and information from the applicant. A completed application and supporting documentation will be submitted by the Film Office to the Community and Cultural Resources Department for its review and approval. The Community and Cultural Resources Department will determine if any park personnel will be required to be present during the still photographic activity. The Community and Cultural Resources Department will forward approved permits to the Film Office and maintain a hard copy on file until such time as it may be destroyed pursuant to law.

(f) Transportation/Flood Control Department - On behalf of the Transportation/Flood Control Department, the Film Office will accept applications and fees for still photographic activities that require road encroachment, or other permits administered by the Transportation/Flood Control Department. The Film Office will obtain all necessary information from a Permittee and supply it to the Department. The Film Office will pay to the Transportation/Flood Control Department all fees and other monies collected from a Permittee. If the activity must be approved by the California Highway Patrol, a permit will not be issued until proof of such approval is submitted to the Transportation/Flood Control Department, directly or via the Film Office. When approved, the permit will be forwarded to the Film Office which will then forward the permit to the Permittee. The Transportation/Flood Control Department will retain the hard copy on file until such time as it may be destroyed pursuant to law.

(g) Airports Department - On behalf of the San Bernardino County Airports Department, the Film Office will accept applications and fees for still photography on County controlled airports. The Film Office will forward all required fees to the Airports Department, collect all necessary information and documentation from the Permittee, and provide it to the Airports Department. When approved by the Airports Department, the Still Photography Permit will be forwarded to the Film Office, which will then forward it to the Permittee. A hard copy of any permit issued by the Airports Department will be maintained on file with the Airports Department until such time as it may be destroyed pursuant to law.

(h) Building & Safety Division - When applicable, the Building and Safety Division will review and approve Still Photography Permit applications that involve the construction of new sets, or the physical alteration of existing buildings within the County

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unincorporated areas. This activity will be coordinated through the Film Office, which will accept applications from Permittees and will pay to the Building and Safety Division any fees that the Film Office collects on its behalf. The Film Office may refer Permittees to the Building and Safety Division when direct contact would expedite processing the permit application.

(i) Special Districts Department - On behalf of the Special Districts Department, the Film Office will accept applications and fees for still photography activities in areas under the jurisdiction of, or facilities managed or administered by the Special Districts Department including, but not limited to, Board-governed special districts, County Service Areas, Lake Arrowhead Dam, and other facilities. Such facilities include various roads, cemeteries, parks and recreation areas, zoos, open space, water and sanitation facilities and other facilities throughout San Bernardino County. In addition to fees for use of areas, facilities, and services, Permittees shall pay a non-refundable fee for temporary use or closure of a road, the excavation of a trench, and the placement of meters and locks on hydrants used to provide water for the purpose of taking still photographs.

The Film Office will coordinate construction and safety inspections, where necessary, by the Special Districts Department and by the Building and Safety Division of any construction by Permittee acting under the jurisdiction of the Special Districts Department.

The Film Office will obtain all necessary information from the Permittee and supply it to the Special Districts Department. The Film Office will pay to the Special Districts Department all fees and other monies collected from the Permittee on behalf of the Special Districts Department. The Special Districts Department will retain the hard copy of any permits it may issue until such time as the permits may be destroyed pursuant to law.

Ordinance 3712 (1998);

41.2208 County Permits, Fees, Costs and Reimbursements.

Prior to the issuance of a Still Photography Permit, the Permittee must pay the applicable fees and deposits set forth herein, and in other applicable laws, ordinances, rules and regulations. Such fees shall be collected by the Film Office and paid over to the appropriate County Department, except for the Still Photography Permit Processing Fees, which shall be retained by the Film Office.

(a) Film Permit Processing Fees - Still Photography Permit Processing Fees are set forth in Section 16.0210B of the San Bernardino County Code. Such fees shall be paid to the Film Office which shall keep them for payment of its services.

(b) County Fire Department Fees - In the event that any fire safety permits are required, they shall be obtained through the Film Office from the local fire department or County Fire Department, as appropriate. The County Fire Department will distribute information to, and coordinate actions with, local fire departments, as appropriate.

At the discretion of the fire department with jurisdiction over the area where the still photography will be done, an event may require fire department personnel or equipment for public safety. These costs shall be paid prior to the event. The County Fire Department shall charge the fees for fire safety permits set forth in Section 16.0211A(c) of the San Bernardino County Code, and shall charge for necessary fire department personnel or equipment pursuant to the Uniform Fire Code, as amended. Such fees may be paid to the Film Office, which will remit them to the appropriate fire agency.

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(c) Sheriff's Department - The Sheriff's Department may negotiate directly, or through the Film Office, for use of Sheriff's Equipment, facilities and services, and for reimbursement of the costs thereof. In the event that a Class I Explosive is to be utilized for any part of the Permittee's activity, an Explosive Permit must be obtained from the San Bernardino County Sheriff's Department. Fees charged by the Sheriff's Department are set forth in Section 16.0226 of the San Bernardino County Code. Unless otherwise directed by the Film Office, the fees shall be paid by the Permittee to the Film Office prior to issuance of the permit. All fees shall be paid by the Film Office to the Sheriff's Office.

(d) Road Encroachment Permit, Trench Excavation, Flood Control Permits If the photographic activity will involve the temporary use or closure of a County road or highway, excavation of a trench, or use or disturbance of a flood control channel, a non-refundable permit must be obtained through the Film Office from the San Bernardino County Transportation and Flood Control Department. These permits must be obtained even if the use is otherwise exempt pursuant to Section 41.2204. Fees for road use or closure, and fees for trench excavation are respectively set forth in Sections 16.0225(a) and (b) of the San Bernardino County Code. Fees concerning use, access and disturbance of flood control channels, and related matters, are set forth in Section 16.0212 of the San Bernardino County Code.

(e) Environmental Health Services - If, during the photographic activity the Permittee operates a food concession, the Permittee shall pay the fees set forth in Section 16.213(b)(9) and (10) of the San Bernardino County Code, as amended. If a subcontractor of Permittee, or an independent contractor, provides a food concession, such person, and not the Permittee, shall be responsible for payment of the fees set forth in Section 16.213(b)(5) and (6) of the San Bernardino County Code, as amended.

(f) Airport Use Fees - The Film Office shall charge, collect, and remit to the Airports Department the fees set forth in Section 16.022 of the San Bernardino County Code.

(g) Museum Fees - If the services or facilities of the County Museum are used by the Permittee, the Permittee shall pay the fees and charges set forth in Section 16.0218 of the San Bernardino County Code, as amended, to the Film Office which shall remit them to the Community and Cultural Resources Department on behalf of the Museum.

(h) Regional Park Fees - If using the facilities or services of the Regional Parks, Permittee shall pay the fees and charges set forth in Section 16.0223 of the San Bernardino County Code, as amended, or such other fees and charges as may be charged by the Community and Cultural Resources Department. The fees and charges shall be paid to the Film Office, which shall immediately remit them to the Community and Cultural Resources Department.

(i) Special Districts Department - The Film Office shall charge, collect, and immediately remit to the Special Districts Department the fees set forth in Section 16.0226A of the San Bernardino County Code, as amended, and such other fees and charges as may be charged by the Special Districts Department.

The Film Office shall also collect any fees, including fees for coordinated permits, that the Permittee may need for water and/or sanitation services within the jurisdiction of the Special Districts Department. Additional fees may be collected for meters and locks that may be necessary for the use of hydrants to provide water for uses other than that of the County Fire Department.

(j) Other County Departments - If Permittee uses county services, or property owned, leased, or managed by a county department other than those listed herein, Permittee shall pay the Film Office such charges as are provided in the San Bernardino

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County Code, as amended, or that may be required by the department directly or through the Film Office. The Film Office shall collect such charges and forward them to the appropriate Department.

Ordinance 3712 (1998);

41.2209 Billing Procedures.

All projected fees, reimbursements and costs must be paid to the Film Office prior to the issuance of a Permit. Upon completion of the project for which the Permit was issued, reimbursements and costs actually incurred shall be determined. Overpayments will be returned by the Film Office within 30 days from the conclusion of the activity. Underpayments will be billed to Permittee by the Film Office and are due within 30 days of the day the billing is mailed. Should the underpayments not be timely paid, the affected County Department may pursue collection of the underpayment.

Ordinance 3712 (1998);

41.2210 Indemnification.

The Permittee agrees, as a condition of receiving a Still Photography Permit, to indemnify, defend and hold harmless the County of San Bernardino, the San Bernardino County Flood Control District and all Districts, County Service Areas, and other entities governed by the San Bernardino County Board of Supervisors along with their authorized officers, employees, agents and volunteers from any and all claims, actions, losses, damages, and/or liability arising out of the photographic activity from any cause or source whatsoever, including, but not limited to, the acts, errors or omissions of any person, and for any costs or expenses incurred by any of the aforementioned entities and individuals on account of any claim therefor, except where prohibited by law. Permittee further agrees to be responsible for payment of any medical charges incurred at any County facility as a result of injury to any person arising out of the photographic activity.

Ordinance 3712 (1998);

41.2211 Insurance.

(a) Types of Insurance - Without in any way affecting the indemnity provided herein, and in addition thereto, the Permittee shall, at its sole expense, maintain at all times the following types of insurance with limits as shown:

(1) Comprehensive General and Automobile Liability Insurance - This coverage to include contractual coverage and automobile coverage for owned, hired and non-owned vehicles. The policy shall have combined single limits for bodily injury and property damage of not less than one million dollars (\$1,000,000).

(2) Pyrotechnic Liability Insurance - In the event that a Class I Explosive permit is to be utilized for any part of the Permittee's Filming Activity, the Permittee will be required to obtain specific pyrotechnic coverage at an amount to be determined by the County Risk Manager as suitable for the scope of the planned pyrotechnic/special effects explosion(s). The minimum requirement for any pyrotechnic coverage policy shall be combined single limits for bodily injury and property damage of not less than two million dollars (\$2,000,000) per occurrence.

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(3) Aircraft Liability Insurance - (when applicable), with combined single limits of \$10,000,000 for bodily injury (including passengers), death and property damage.

(4) Workers' Compensation - A program of Workers' Compensation insurance or a state-approved Self-Insurance Program in an amount and form to meet all applicable requirements of the Labor Code of the State of California, including Employer's Liability with \$250,000 limits, covering all persons providing services on behalf of the Permittee and all risks to such persons. Permittee shall also require all subcontractors to maintain such a program of Workers' Compensation insurance for all persons providing services on behalf of the subcontractors.

(b) Policy Provisions:

(1) Additional Named Insured - All policies, except for Workers' Compensation policies, shall contain additional endorsements naming the County and its officers, employees, agents and volunteers as additional named insured with respect to liabilities arising out of Permittee's photographic activities.

(2) Waiver of Subrogation Rights - Permittee shall require the carriers of the above required coverages to waive all rights of subrogation against the County, its officers, employees, agents, volunteers, contractors and subcontractors.

(3) Policies Primary and Non-Contributory - All policies required above are to be primary and non-contributory with any insurance or self-insurance programs carried or administered by the County.

(c) Proof of Coverage - Permittee shall, prior to issuance of the Still Photography Permit, furnish certificates of insurance to the Film Office evidencing the insurance coverage, including endorsements, above required, which certificates shall provide that such insurance shall not be terminated or expire, prior to expiration of the Still Photography Permit, without thirty (30) days written notice to the Film Office, and Permittee shall maintain such insurance throughout the period of the Permit.

(d) Insurance Review - The above insurance requirements are subject to periodic review by the County. The County's Risk Manager is authorized, but not required, to reduce or waive any of the above insurance requirements whenever the Risk Manager determines that any of the above insurance is not available, is unreasonably priced, or is not needed to protect the interests of the County. In addition, if the Risk Manager determines that heretofore unreasonably priced or unavailable types of insurance coverage or coverage limits become reasonably priced or available, the Risk Manager is authorized, but not required, to change the above insurance requirements to require additional types of insurance coverage or higher coverage limits, provided that any such change is reasonable in light of past claims against the County, inflation, or any other item reasonably related to the County's risk.

Ordinance 3712 (1998);

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41.2212 Film Credits.

The County of San Bernardino requests to be listed on any credits.

Ordinance 3712 (1998);

41.2213 Other Regulatory Provisions.

Compliance with the provisions of this chapter does not exempt a Permittee from compliance with other requirements of this Code with the laws of the State of California, and with the laws of the United States.

Ordinance 3712 (1998);

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TITLE 4: BUSINESS AND SPECIAL LICENSES, REGULATIONS

DIVISION 1: BUSINESS LICENSES AND REGULATIONS

Chapter 24: Issuance of Filming Permits and Fees

Sections:

- 41.2401 Purposes.
- 41.2402 Authority.
- 41.2403 Permits Required.
- 41.2404 Exemptions: Fees/Charges and Permits.
- 41.2405 Film Office.
- 41.2406 Notification of District.
- 41.2407 Film Office Liaison Functions.
- 41.2408 County Permits, Fees, Costs and Reimbursements.
- 41.2409 Billing Procedures.
- 41.2410 Indemnification.
- 41.2411 Insurance.
- 41.2412 Film Credits.
- 41.2413 Other Regulatory Provisions.

41.2401 Purposes.

___ Film, television, and commercial production play an important role in the economy of San Bernardino County that should be encouraged. This Chapter will further such activities within the County by authorizing a centralized Film Office that will coordinate Filming Permits and fee processing and encourage filming activity.

41.2402 Authority.

Pursuant to Sections 14999.20, 14999.21, 15335.22(d), 15338, and 65850.1(a) of the Government Code of the State of California, the Board of Supervisors has authority to adopt an ordinance governing the issuance of permits to engage in the use of property for occasional commercial filming on location, establishing a centralized County permit processing office, and authorizing use of a permit application form.

41.2403 Permits Required.

Except as set forth herein, a Filming Permit shall be required for all commercial filming done in the unincorporated area of San Bernardino County, or when facilities are used that belong to, are managed by, or are under the jurisdiction of the County of San Bernardino. Filming Permits shall, unless otherwise specified herein, be required for all visual recording processes that record motion.

41.2404 Exemptions: Fees/Charges and Permits.

(a) Full Exemptions:

The following uses are exempt from the requirement of obtaining a Filming Permit, but must otherwise comply with all applicable laws, rules and regulations:

- (1) Activity at an existing approved film studio. A Filming Permit will only be required if filming is done away from a permanent facility approved for such use;
- (2) Filming activity for private or family use;
- (3) Filming activity for use in criminal or civil proceedings;
- (4) News Media filming activity;
- (5) Filming activity for educational and governmental purposes;

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(6) Local origination programs for cable television systems franchised with the County; and

(7) Filming of emergencies including, but not limited to, fire, floods and emergency police activities.

(b) Partial Exemptions:

The following users are required to apply for a Filming Permit and to pay all fees, costs and reimbursements except for the Filming Permit Processing Fee referred to in Section 41.2408(a) and set forth in Section 16.0210A of the San Bernardino County Code, from which they are exempt.

(1) Charitable filming activity; and

(2) Filming activity by a student who has submitted a letter written on school letterhead by a school administrator or instructor stating that the applicant is currently enrolled in a recognized U.S. educational institution and that the film shall not be commercially released in any manner whatsoever.

41.2405 Film Office.

The Board shall designate a liaison between persons seeking Filming Permits ("Permittees") and the County, which liaison shall be referred to as the "Film Office." In addition, the Film Office will promote filming activities in San Bernardino County, will assist production companies in finding filming locations within San Bernardino County, will maintain a location photograph library, will coordinated with local businesses for production company support, and will serve as a marketing agent for the County.

41.2406 Notification of District.

Upon the filing of an application for a Filming Permit, the Film Office will give written notification of the filing of the application to the County Supervisor for the district wherein the filming will be done.

41.2407 Film Office Liaison Functions.

The Film Office will act as liaison between Permittees and the County for obtaining Filming Permits and paying County fees and other costs. Each County department shall have final approval or denial authority for use of the County properties for which it is responsible, and for issuance of permits for which it is responsible. When necessary, the Film Office may facilitate direct contact between Permittees and any County department or employee. The Film Office shall remit to the County all fees, costs and reimbursements collected on behalf of the County.

(a) County Administrative Office – All requests for use of County facilities must be coordinated through the County Administrative Office or the designated department head for the facility for which the request is being made.

(b) County Fire Department – Permittees shall comply, at all times, with the Uniform Fire Code. On behalf of the County Fire Department, the Film Office will accept applications for fire safety permits. The Film Office will remit all County Department fees and gather the required information and documentation for submittal to the County Fire Department. Once all requested information is received by the County Fire Department, the application will be reviewed. When approved, fire safety permits shall be delivered by the County Fire Department to the Film Office. The Film Office will then forward the fire safety permits to the Permittee. The hard copy of the fire safety permit will be maintained on file with the County Fire Department.

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At the discretion of the County Fire Department, an event may require standby fire department personnel or equipment for public safety. These costs shall be paid as set forth hereafter.

(c) Sheriff's Department –

(1) Sheriff's Department's Facilities and Services.

The Film Office shall coordinate the assistance of the Sheriff's Department in filming activities through the Public Affairs Division of the Sheriff's Department. The Sheriff's Department shall charge Permittees for use of Sheriff's equipment, facilities and services, and for reimbursement of the costs therefore.

(2) Bomb/Arson Unit.

On behalf of the San Bernardino County Sheriff's Department's Bomb/Arson Unit, the Film Office will accept applications for renewal and reactivation of explosive permits for special effects operators and will collect, and remit to the Sheriff's Department, all applicable fees. Applicants for new explosive permits will be required to present themselves in person at the Sheriff's Department for photographs and fingerprinting. The Film Office will remit all explosive permit fees to the San Bernardino County Sheriff's Department and forward the required documentation to the Sheriff's Department's Bomb/Arson Unit. A photocopy of the applicant's pyrotechnic/special effects operator's license must accompany the application.

Applicants for explosive permits, and holders thereof, shall at all times comply with all laws, regulations and ordinances concerning explosives and pyrotechnic devices including, but not limited to, Division 11 of the Health and Safety Code (Health and Safety Code Section 12000, et seq.) regulations promulgated by the State Fire Marshal, and Section 45.011 of the San Bernardino County Code.

(d) Department of Public Health, Division of Environmental Health Services – The Division of Environmental Health Services of the County will provide assistance to the Film Office as needed. All filming sites shall be kept in a safe and sanitary condition. All trash shall be contained in proper receptacles and disposed of by a San Bernardino County permitted refuse hauler. All pumping of portable toilets must be done by a liquid waste hauler with a permit from San Bernardino County. Food vehicles and food caterers shall be approved and permitted by Environmental Health Services prior to filming, if food is to be provided on site, unless otherwise agreed by Environmental Health Services. To expedite this process, the Film Office will gather the required information and documentation for submittal to Environmental Health Services. All required fees will be paid to the Film Office and forwarded to Environmental Health Services.

(e) County Parks and County Museums –

(1) Regional Parks - The Film Office will coordinate filming activity involving County Parks through the Department of Public Works, specifically the Regional Parks Division. The Film Office will accept applications for filming activity and gather all required documentation and information from the applicant. A completed application and supporting documentation will be submitted by the Film Office to the Regional Parks Division for its review and approval. The Regional Parks Division will determine if any park personnel will be required to be present during filming. The Regional Parks Division will forward approved permits to the Film Office and maintain a hard copy on file until such time as it may be destroyed pursuant to law.

(2) County Museum - The Film Office will coordinate filming activity involving County Museums through County Museum. The Film Office will accept applications for filming activity and gather all required documentation and information from the applicant. A completed application and supporting

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documentation will be submitted by the Film Office to County Museum for its review and approval. County Museum will determine if any museum personnel will be required to be present during filming. County Museum will forward approved permits to the Film Office and maintain a hard copy on file until such time as it may be destroyed pursuant to law.

(f) Transportation/Flood Control Department – On behalf of the Transportation/Flood Control Department, the Film Office will accept applications and fees for filming activity and for road encroachment permits. The Film Office will obtain all necessary information from a Permittee and supply it to the Department. The Film Office will pay to the Transportation/Flood Control Department all fees and other monies collected from a Permittee. If the activity must be approved by the California Highway Patrol, a permit will not be issued until proof of such approval is submitted to the Transportation/Flood Control Department, directly or via the Film Office. When approved, the permit will be forwarded to the Film Office which will then forward the permit to the Permittee. The Transportation/Flood Control Department will retain the hard copy on file until such time as it may be destroyed pursuant to law.

(g) Airports Department - On behalf of the San Bernardino County Airports Department, the Film Office will accept applications and fees for filming activity on County controlled airports. The Film Office will forward all required fees to the Airports Department, collect all necessary information and documentation from the Permittee, and provide it to the Airports Department. When approved by the Airports Department, the permit will be forwarded to the Film Office, which will then forward it to the Permittee. A hard copy of the permit will be maintained on file with the Airports Department until such time as it may be destroyed pursuant to law.

(h) Building & Safety Division - When applicable, the Building and Safety Division will review and approve Permit applications that involve the construction of new sets, or the physical alteration of existing buildings within the County unincorporated areas. This activity will be coordinated through the Film Office, which will accept applications from Permittees and will pay to the Building and Safety Division any fees that the Film Office collects on its behalf. The Film Office may refer Permittees to the Building and Safety Division when direct contact would expedite processing the permit application.

(i) Special Districts Department - On behalf of the Special Districts Department, the Film Office will accept applications and fees for filming activities in areas under the jurisdiction of, or facilities managed or administered by, the Special Districts Department including, but not limited to, Board-governed special districts, County Service Areas, Lake Arrowhead Dam, and other facilities. Such facilities include various roads, cemeteries, parks and recreation areas, zoos, open space, water and sanitation facilities and other facilities throughout San Bernardino County. In addition to fees for use of areas, facilities, and services, Permittees shall pay a non-refundable fee for temporary use or closure of a road, the excavation of a trench, and the placement of meters and locks on hydrants used to provide water for filming purposes.

The Film Office will coordinate construction and safety inspections, where necessary, by the Special Districts Department and by the Building and Safety Division of any construction by Permittee acting under the jurisdiction of the Special Districts Department.

The Film Office will obtain all necessary information from the Permittee and supply it to the Special Districts Department. The Film Office will pay to the Special Districts Department all fees and other monies collected from the Permittee on behalf of the Special Districts Department. The Special Districts Department will retain the hard copy

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of any permits it may issue until such time as the permits may be destroyed pursuant to law.

41.2408 County Permits, Fees, Costs and Reimbursements.

Prior to the issuance of a Permit, the Permittee must pay the applicable fees and deposits set forth herein, and in other applicable laws, ordinances, rules and regulations. Such fees shall be collected by the Film Office and paid over to the appropriate County department, except for the Film Permit Processing Fees, which shall be retained by the Film Office.

(a) Filming Permit Processing Fees - Filming Permit Processing Fees are set forth in Section 16.0210A of the San Bernardino County Code. Such fees shall be paid to the Film Office which shall keep them for payment of its services.

(b) County Fire Department Fees - In the event that any fire safety permits are required, they shall be obtained through the Film Office from the local fire department or County Fire Department, as appropriate. The County Fire Department will distribute information to, and coordinate actions with, local fire departments, as appropriate.

At the discretion of the fire department with jurisdiction over the area where the filming will be done, an event may require fire department personnel or equipment for public safety. These costs shall be paid prior to the event. The County Fire Department shall charge the fees for fire safety permits set forth in Section 16.0211A(b) of the San Bernardino County Code, and shall charge for necessary fire department personnel or equipment pursuant to the Uniform Fire Code, as amended. Such fees may be paid to the Film Office, which will remit them to the appropriate fire agency.

(c) Sheriff's Department - The Sheriff's Department may negotiate directly, or through the Film Office, for use of Sheriff's Department Equipment, facilities and services, and for reimbursement of the costs thereof. In the event that a Class I Explosive is to be utilized for any part of the Permittee's Filming Activity, an Explosive Permit must be obtained from the San Bernardino County Sheriff's Department. Fees charged by the Sheriff's Department are set forth in Section 16.0226 of the San Bernardino County Code. Unless otherwise directed by the Film Office, the fees shall be paid by the Permittee to the Film Office prior to issuance of the permit. All fees shall be paid by the Film Office to the Sheriff's Department.

(d) Road Encroachment Permit, Trench Excavation, Flood Control Permits - If the filming activity will involve the temporary use or closure of a County road or highway, excavation of a trench, or use or disturbance of a flood control channel, a non-refundable permit must be obtained through the Film Office from the San Bernardino County Transportation and flood Control Department. These permits must be obtained even if the use is otherwise exempt pursuant to Section 41.2404. Fees for road use or closure, and fees for trench excavation are respectively set forth in Sections 16.0225(a) and (b) of the San Bernardino County Code. Fees concerning use, access and disturbance of flood control channels, and related matters, are set forth in Section 16.0212 of the San Bernardino County Code.

(e) Environmental Health Services - If, during the filming, the Permittee operates a food concession, the Permittee shall pay the fees set forth in Section 16.0213B of the San Bernardino Code, as amended. If a subcontractor of Permittee, or an independent contractor, provides a food concession, such person, and not the Permittee, shall be responsible for payment of the fees set forth in Section 16.0213B of the San Bernardino County Code, as amended.

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(f) Airport Use Fees - The Film Office shall charge, collect, and remit to the Airports Department the fees set forth in Section 16.022 of the San Bernardino County Code.

(g) Museum Fees - If the services or facilities of the County Museum are used by the Permittee, the Permittee shall pay the fees and charges set forth in Section 16.0218 of the San Bernardino County Code, as amended, to the Film Office which shall remit them to the County Museum.

(h) Regional Park Fees - If using the facilities or services of the Regional Parks, Permittee shall pay the fees and charges set forth in Section 16.0223 of the San Bernardino County Code, as amended, or such other fees and charges as may be charged by the Regional Parks Division of the Department of Public Works. The fees and charges shall be paid to the Film Office, which shall immediately remit them to the Regional Parks Division.

(i) Special Districts Department - The Film Office shall charge, collect, and immediately remit to the Special Districts Department the fees set forth in Section 16.0226A of the San Bernardino County Code, as amended, and such other fees and charges as may be charged by the Special Districts Department.

The Film Office shall also collect any fees, including fees for coordinated permits, that the Permittee may need for water and/or sanitation services within the jurisdiction of the Special Districts Department. Additional fees may be collected for meters and locks that may be necessary for the use of hydrants to provide water for uses other than that of the County Fire Department.

(j) Other County Departments - If Permittee uses County services, or property owned, leased, or managed by a County department other than those listed herein, Permittee shall pay the Film Office such charges as are provided in the San Bernardino County Code, as amended, or that may be required by the department directly or through the Film Office. The Film Office shall collect such charges and forward them to the appropriate department.

41.2409 Billing Procedures.

All projected fees, reimbursements and costs must be paid to the Film Office prior to the issuance of a Permit. Upon completion of the project for which the Permit was issued, reimbursements and costs actually incurred shall be determined. Overpayments will be returned by the Film Office within 30 days from the conclusion of the activity. Underpayments will be billed to Permittee by the Film Office and are due within 30 days of the day the billing is mailed. Should the underpayments not be timely paid, the affected County department may pursue collection of the underpayment.

41.2410 Indemnification.

The Permittee agrees, as a condition of receiving a Permit, to indemnify, defend and hold harmless the County of San Bernardino, the San Bernardino County Flood Control District and all Districts, County Service Areas, and other entities governed by the San Bernardino County Board of Supervisors along with their authorized officers, employees, agents and volunteers from any and all claims, actions, losses, damages, and/or liability arising out of the filming activity from any cause or source whatsoever, including, but not limited to, the acts, errors or omissions of any person, and for any costs or expenses incurred by any of the aforementioned entities and individuals on account of any claim therefor, except where prohibited by law. Permittee further agrees to be responsible for payment of any medical charges incurred at any County facility as a result of injury to any person arising out of the filming or still photography activity.

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41.2411 Insurance.

(a) Types of Insurance - Without in any way affecting the indemnity provided herein, and in addition thereto, the Permittee shall, at its sole expense, maintain at all times the following types of insurance with limits as shown:

(1) Comprehensive General and Automobile Liability Insurance - This coverage to include contractual coverage and automobile coverage for owned, hired and non-owned vehicles. The policy shall have combined single limits for bodily injury and property damage of not less than one million dollars (\$1,000,000).

(2) Pyrotechnic Liability Insurance - In the event that a Class I Explosive permit is to be utilized for any part of the Permittee's Filming Activity, the Permittee will be required to obtain specific pyrotechnic coverage at an amount to be determined by the County Risk Manager as suitable for the scope of the planned pyrotechnic/special effects explosion(s). The minimum requirement for any pyrotechnic coverage policy shall be combined single limits for bodily injury and property damage of not less than two million dollars (\$2,000,000) per occurrence.

(3) Aircraft Liability Insurance - (when applicable), with combined single limits of \$10,000,000 for bodily injury (including passengers), death and property damage.

(4) Workers' Compensation - A program of Workers' Compensation insurance or a state-approved Self-Insurance Program in an amount and form to meet all applicable requirements of the Labor Code of the State of California, including Employer's Liability with \$250,000 limits, covering all persons providing services on behalf of the Permittee and all risks to such persons. Permittee shall also require all subcontractors to maintain such a program of Workers' Compensation insurance for all persons providing services on behalf of the subcontractors.

(b) Policy Provisions:

(1) Additional Named Insured - All policies, except for Workers' Compensation policies, shall contain additional endorsements naming the County and its officers, employees, agents and volunteers as additional named insured with respect to liabilities arising out of Permittee's filming activities.

(2) Waiver of Subrogation Rights - Permittee shall require the carriers of the above required coverages to waive all rights of subrogation against the County, its officers, employees, agents, volunteers, contractors and subcontractors.

(3) Policies Primary and Non-Contributory - All policies required above are to be primary and non-contributory with any insurance or self-insurance programs carried or administered by the County.

(c) Proof of Coverage - Permittee shall, prior to issuance of the Filming Permit, furnish certificates of insurance to the Film Office evidencing the insurance coverage, including endorsements, above required, which certificates shall provide that such insurance shall not be terminated or expire, prior to expiration of the Filming Permit, without thirty (30) days written notice to the Film Office, and Permittee shall maintain such insurance throughout the period of the Permit.

(d) Insurance Review - The above insurance requirements are subject to periodic review by the County. The County's Risk Manager is authorized, but not required, to reduce or waive any of the above insurance requirements whenever the Risk Manager determines that any of the above insurance is not available, is unreasonably priced, or is not needed to protect the interests of the County. In addition, if the Risk Manager determines that heretofore unreasonably priced or unavailable types of insurance coverage or coverage limits become reasonably priced or available, the Risk Manager is

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authorized, but not required, to change the above insurance requirements to require additional types of insurance coverage or higher coverage limits, provided that any such change is reasonable in light of past claims against the County, inflation, or any other item reasonably related to the County's risk.

41.2412 Film Credits.

The County of San Bernardino requests to be listed in the film credits.

41.2413 Other Regulatory Provisions.

Compliance with the provisions of this Chapter does not exempt a Permittee from compliance with other requirements of this Code, with the laws of the State of California, and with the laws of the United States.

Amended Ordinance 3896 (2003)

CARNIVALS

DIVISION 2.

SPECIAL LICENSES AND REGULATIONS

Chapters:

- 1. Carnivals**
- 2. Circulation of Papers**
- 3. Distress Sales**
- 4. Sale or Trade of Personal Property (Swap Meet)**
- 5. Community Antenna TV**
- 6. Airports and Helistops.**

Chapter 1

CARNIVALS

Sections:

- 42.011 License Required.
- 42.012 Application, Investigation and Hearing.
- 42.013 Issuance and Display of License.
- 42.014 Revocation of License, Hearing.
- 42.015 Enforcement.
- 42.016 Duration of License.
- 42.017 Definition of Person or Party.
- 42.018 Reasons for Denial of License or Renewal of License.
- 42.019 Exemption of Incorporated Area.
- 42.0110 Show License.
- 42.0111 Skating License.
- 42.0112 Race Track License.

42.011 License Required.

It shall be unlawful for any person or persons whether as principal, clerk, servant, agent or employee to engage in, conduct, or carry on or participate in any business, exhibition or occupation, in this chapter specified, without having first procured a license so to do, and paid the fee for such license as in this chapter provided, or to engage in, or conduct or carry on any such business unless a license shall have been duly issued for the particular business or establishment sought to be conducted, and such license shall not have expired or shall not have been revoked; and every person who shall violate any law the provisions of this chapter shall be deemed guilty of a misdemeanor and shall be punished by a fine of not more than five hundred dollars (\$500), or by imprisonment in the County Jail for a period not exceeding six (6) months, or by both such fine and imprisonment.

Adopted Ordinance #474 (1939); Amended Ordinance #649 (1950); Amended Ordinance #1522 (1969);

42.012 Application, Investigation and Hearing.

Application for such license shall be made to the Board of Supervisors of the County of San Bernardino in writing and shall state the name and address of the

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applicant; the particular kind of business, exhibition or occupation to be conducted; the place where the same is to be conducted and must be accompanied by the license fee, as in this chapter prescribed, for the period for which the license is sought. Upon receipt of such application, together with the license fee, as in this chapter provided, the Board of Supervisors shall thoroughly investigate the application. After such investigation the Board of Supervisors may grant the application, or in its judgment, may call for a public hearing to determine whether or not the application shall be granted.

Notice of such public hearing shall be given by two (2) publications in a newspaper of general circulation, circulated in the town, village, community or district wherein or in the vicinity of which such business, exhibition or occupation is sought to be conducted, and if there be no such newspaper, then by posting such notice in three (3) public places in such town, village, community or district.

At the time and place set for the hearing or to which said hearing may be continued by the Board of Supervisors, the Board of Supervisors shall hear the applicant for such license who may present any facts or witnesses to show why such license should be granted, and shall hear and consider all oral and written objections to the granting of said license, and may place under oath and interrogate any person before it. At the close of the hearing, or at any time within thirty (30) days thereafter, the Board of Supervisors may deny the application for such license if, from the facts produced at the hearing, and from any other facts in its possession, it shall appear:

(a) That the premises in respect to which the license is to be issued do not comply with the requirements of any law, or are injurious to the public Health, safety or morals; or

(b) That the applicant for such license is an unfit person to be trusted with the privilege granted by such license; or

(c) That the conduct of the business, exhibition or occupation sought to be licensed is likely to become a public nuisance or to constitute a breach of the public peace or is likely to become, in any way, a detriment to public welfare.

Adopted Ordinance #474 (1939); Amended Ordinance #649 (1950); Amended Ordinance #1522 (1969);

42.013 Issuance and Display of License.

Upon approval of any application for such license by the Board of Supervisors as herein provided, the County Tax Collector shall issue a license to the applicant; such license shall set forth the name of the applicant; the place where the business, exhibition or occupation is to be conducted; the period for which issued and the amount of the fee paid. Each license shall be non-transferable, shall be posted in a conspicuous place in or on the premises in respect to which it is issued and shall be exhibited to any peace officer. Each license issued hereunder is separate and distinct and no person shall seek to exercise the privileges granted thereunder except the person, corporation or association to whom it is issued and at the specific place for which it was issued.

Adopted Ordinance #474 (1939); Amended Ordinance #649 (1950); Amended Ordinance #1522 (1969);

42.014 Revocation of License, Hearing.

Every license granted under this chapter or any section thereof is granted and accepted by all parties receiving such license with the express understanding that the Board of Supervisors may revoke the same or the order for the issuance thereof, at any

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time when it appears to the Board of Supervisors that any state of facts exists upon which it would be authorized to deny an application for such license, or that the person to whom such license was issued or any of its agents, servants or employees, or any other person in charge of or employed about the business, exhibition or occupation for which such license was issued, has violated any of the conditions of the license or terms of this chapter or of any other ordinance or of any law of the State, now or hereafter in force, regulating the exhibition, occupation or business for which such license is issued, or that the license was obtained by fraudulent representations, or that the holder of the license is an unfit person to be trusted with the privileges granted by said license, or has conducted its business in an immoral or disorderly manner, or has conducted such business, exhibition or occupation in such a manner as to be detrimental to public peace, public safety or public welfare; provided however, that no license shall be revoked without giving the holder thereof an opportunity to appear before the Board of Supervisors in his own behalf. If the Board of Supervisors is of the opinion that a hearing should be had to determine whether or not the license should be revoked, it shall cause a notice of such hearing to be given to the holder of such license at a time not less than five (5) days before the hearing. At the time set for the hearing or at the date to which said hearing may be continued by the Board of Supervisors, the Board of Supervisors shall hear the holder of the license, who may present any facts to show why such license shall not be revoked, and shall hear statements from other persons who may attend the hearing and present reasons why the license should or should not be revoked, and may, if it so desires, place under oath and question any person before it; provided, that the Board of Supervisors may close the hearing when it is convinced that no public good will result from its continuance. At the close of the hearing, or at any time within thirty (30) days thereafter, the Board of Supervisors shall determine from the facts produced at the hearing, and from any other facts in its possession, whether or not the license should be revoked, and shall make its order accordingly and may make such order conditional upon the doing or not doing of any act by the holder of the license or his agents or servants, which the Board of Supervisors deems for the public good. On the revocation of the license no part of the money in the hands of the Tax Collector shall be returned, but such license fee shall be forfeited to the County. Notice of such revocation shall be given to the Tax Collector by the Clerk of the Board.

Adopted Ordinance #474 (1939); Amended Ordinance #649 (1950); Amended Ordinance #1522 (1969);

42.015 Enforcement.

(a) **SUIT BY TAX COLLECTOR.** It shall be the duty of the Tax Collector to cause suit to be brought in the name of the County of San Bernardino as plaintiff for the recovery of any license fee herein imposed against any person required by this chapter to first procure a license before engaging in any business, as herein defined, who carries on or attempts to carry on such business without such license.

(b) **REPRESENTATION OF TAX COLLECTOR BY DISTRICT ATTORNEY.** It shall be the duty of the District Attorney to prosecute all violations of this chapter on sworn complaint thereto, and to act as attorney for the Tax Collector, for the collection of any unpaid license fees.

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Adopted Ordinance #474 (1939); Amended Ordinance #649 (1950); Amended Ordinance #1522 (1969);

42.016 Duration of License

All sums of money for licenses provided for in this chapter are due and payable in advance at the office of the County Tax Collector and all licenses herein provided for may be issued for any period not exceeding one (1) year and not less than the period for which a license fee is fixed.

Adopted Ordinance #474 (1939); Amended Ordinance #649 (1950); Amended Ordinance #1522 (1969);

42.017 Definition of Person or Party.

Whenever the word "person" or "party" is used in this chapter referring to those liable to pay license fees, the same is intended and shall be construed to include as well a firm, association or corporation carrying on the business for which a license must be procured, and when the terms in this chapter designate the principal, the same shall be construed to include as well the agents, servants, representatives and employees of such principal. It is the intention hereof to license the business, exhibition or occupation, and not separate or individual acts, except as herein otherwise provided.

Adopted Ordinance #474 (1939); Amended Ordinance #649 (1950); Amended Ordinance #1522 (1969);

42.018 Reasons for Denial of License or Renewal of License.

No license nor any renewal of the same shall be granted for any business, exhibition or occupation, which is a public nuisance or which has been so conducted as to a public nuisance. A license or a renewal thereof may be refused because the business, exhibition or occupation is apt to become a public nuisance, or is, apt to be in any way detrimental to the public interest, or that the applicant therefor is a person unfit to be trusted with the privileges granted by said license. No person who has been once refused a license, or who has failed to prosecute his application therefor to a hearing before the Board of Supervisors, as herein provided, shall be granted a license for the same business, occupation or exhibition except upon order of the Board of Supervisors. Any applicant for a license may be examined under oath to determine who is the real party in interest in the business, occupation or exhibition for which a license is sought, and if the Board of Supervisors is satisfied that the application is not in the interest of the party in whose name the application is made it may refuse to grant the license, and if found to be in the interest of one who has already been refused a license, it may treat the application as though made by the real party in interest, and the application shall have the same effect against any future application as if it had been made in the name of the real party in interest.

Adopted Ordinance #474 (1939); Amended Ordinance #649 (1950); Amended Ordinance #1522 (1969);

42.019 Exemption of Incorporated Area.

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Nothing herein contained shall be deemed to regulate or impose a license upon any business, exhibition or occupation carried on within the boundaries of any incorporated city or town.

Adopted Ordinance #474 (1939); Amended Ordinance #649 (1950); Amended Ordinance #1522 (1969);

42.0110 Show License.

Every person carrying on the business or occupation of exhibiting or conducting a traveling show or entertainment open to the public, including any caravan, museum, menagerie, collection of animals or freaks, circus, sideshows, burlesque show, rodeo, carnival, exhibition of animals, feats of horsemanship, acrobatic performance, "Wild West" show or other show or entertainment similar in character and not otherwise named, shall procure a license and pay a license fee as indicated in the current fee ordinance.

Adopted Ordinance #474 (1939); Amended Ordinance #649 (1950); Amended Ordinance #1522 (1969);

42.011 Skating License.

Every person conducting the business of a public exhibition of a roller skating race, roller derby, roller skating derby, roller skating exhibition, or ice skating race, ice skating derby, ice skating exhibition or any contest or exhibition of speed or skill on roller skates or ice skates, which is open to the public, shall procure a license and pay a license ad indicated in the current fee ordinance.

Adopted Ordinance #474 (1939); Amended Ordinance #649 (1950); Amended Ordinance #1522 (1969);

42.0112 Race Track License.

Every person conducting the business of a race track which is open to the public and at which races or exhibitions of speed, skill, daring or endurance by means of automobiles, midget automobiles, midget races, racing cars or motorcycles are held shall procure a license and pay a license fee as indicated in the current fee ordinance. Every person conducting the business of a race track which is open to the public and at which races between animals are held shall procure a license and pay a license fee as indicated in the current fee ordinance.

Adopted Ordinance #474 (1939); Amended Ordinance #649 (1950); Amended Ordinance #1522 (1969);

CIRCULATION OF PAPERS

Chapter 2

CIRCULATION OF PAPERS

Sections:

- 42.021 Circulation of Advertising Papers - Prohibited.
- 42.022 Posting of Advertising Papers - Prohibited.

42.021 Circulation of Advertising Papers - Prohibited.

It shall be unlawful for any person to throw, circulate, or distribute upon any of the streets of any unincorporated towns any poster, dodger, circular, or other printed advertising matter on paper.

Adopted Ordinance #81 (1901);

42.022 Posting of Advertising Papers - Prohibited.

It shall be unlawful for any person to post, or attach to any building, post, or structure, along any street of any unincorporated town of said County, any poster, dodger, circular or any other printed advertising matter or paper, unless the same is securely fastened to said building, post or structure.

Adopted Ordinance #81 (1901);

DISTRESS SALES

Chapter 3

DISTRESS SALES

Sections:

- 42.031 License Required.
- 42.032 Sales Designation.
- 42.033 Application - Content; Verification.
- 42.034 Reasons for Denial of License.
- 42.035 Fee and Duration of License.
- 42.036 Extended Duration of License in Special Hardship Cases.
- 42.037 Additional Information Requirement.
- 42.038 Verifications of Applicant.
- 42.039 Verified Inventory.
- 42.0310 Compliance with Terms of Permit.
- 42.0311 Violation.
- 42.0312 Enforcement.

42.031 License Required.

It shall be unlawful for any person, without first obtaining from the Sheriff of San Bernardino County, a license to be designated as a "Distress Sale License," to advertise or conduct any sale of goods at retail, which sale is represented, by said person or any agent of his,

- (a) as a sale of goods damaged by fire, water, or other casualty; or
- (b) as a sale for liquidation or closing out of a business or moving of the place of business; or
- (c) as a sale of assets of the estate of a bankrupt, insolvent, or deceased person, or, in the hands of an assignee, adjuster, trustee, executor, administrator, guardian, receiver, or other fiduciary, unless the person conducting such sale possesses a valid appointment by a court of competent jurisdiction appointing said person to a position entitling said person, either by its terms or by operation of law, to conduct such sale of the assets actually sold and offered for sale; or
- (d) as a sale of jobbers, manufacturers, or wholesalers; or
- (e) as a sale of salvaged goods; or
- (f) as any other sale which is by representation or advertisement intended to lead, or does actually reasonably lead, or has a reasonable tendency to lead the public to believe that the person conducting such sale is selling out the goods for less than the current or going retail price thereof in the County of San Bernardino, by reason of damage, economic or legal distress, or similar temporary circumstances.

Adopted Ordinance #927 (1960); Amended Ordinance #1522 (1969);

42.032 Sales Designation.

All such sales shall be known as distress sales.

Adopted Ordinance #927 (1960); Amended Ordinance #1522 (1969);

42.033 Application -- Content; Verification.

Said "Distress Sales License" shall be issued only upon application including or accompanied by the following requirements:

DISTRESS SALES

- (a) The name and residence address of the person to whom the license is to be issued, hereinafter designated as the applicant, and the name and residence address of the legal owner of the stock to be sold;
- (b) Request for issuance of a "Distress Sale License," and a designation of the proper subsection or subsection of Section 42.031 of this chapter which apply to the proposed sale;
- (c) An inventory of the stock on hand in triplicate;
- (d) A complete list, and proof of the correctness thereof, of all goods not yet on hand which will or may be offered at the proposed distress sale, and proof that the same already belong to applicant, or have previously been ordered, or that applicant is legally bonded to purchase (or dispose of) the same;
- (e) The business address or addresses at which the proposed distress sale is to occur;
- (f) The business name under which the proposed distress sale is to occur;
- (g) The length of time that the applicant has conducted the business or used the business name under which the proposed distress sale will occur, and the same as applied to the present address;
- (h) Whether the stock on hand or to come was ordered for the purpose of the proposed distress sale;
- (i) The proposed beginning and ending date of the proposed distress sale;
- (j) The location of the records of such proposed distress sale;
- (k) Any other information which applicant wishes to offer;
- (l) A certificate under penalty of perjury or an affidavit attesting to the correctness of the preceding information, inventory, and list.

Adopted Ordinance #927 (1960); Amended Ordinance #1522 (1969);

42.034 Reasons for Denial of License.

The said license shall not be issued if:

- (a) The business has not been in existence at the address for more than six months last past, in cases where the proposed distress sale falls under categories (b) or (f) as described in Section 42.031;
- (b) The stock or any portion thereof proposed to be sold was acquired or contracted for, for the purpose of the proposed distress sale, if the same falls under categories (b) or (f), as described in Section 42.031;
- (c) Applicant fails to declare under penalty of perjury that goods proposed to be sold under categories (a), (c), (d), or (e) of Section 42.031 are actually or the description therein designated, such as damaged under subdivision (a), sold under circumstances described in subdivision (c), or by persons described in subdivision (d), or salvaged under subdivision (e);
- (d) Applicant has conducted any distress sale during the previous six months, whether of the same or a different category, and whether under the same or a different business or firm name, and whether alone, or in partnership with the same or different persons; and if any person shall be the owner of the majority of stock in a corporation applying or which has applied for or been granted any sort or distress sale license, said owner shall be deemed the applicant for purposes of this Section, subdivision (d), (e), or (f);
- (e) Applicant has obtained a previous distress sale license when not actually entitled thereto, or has obtained such a license and has exceeded the terms thereof, or has conducted a distress sale without proper required license; or

DISTRESS SALES

(f) Applicant or legal owner has been convicted of grand theft or fraud in the State of California, or of any crime in another state which would be grand theft or fraud if committed in the State of California.

Adopted Ordinance #927 (1960); Amended Ordinance #1522 (1969);

42.035 Fee and Duration of License.

The fee for such license shall be thirty-seven dollars (\$37); if an extension is granted under Section 42.036, the fee shall be fifty-five dollars (\$55) for each thirty-day period or portion thereof for which extension is so granted.

The said license shall permit the distress sale of the type therein designated for a period of thirty (30) days, which period shall be designated by beginning and ending date in the license; and if the license shall fail to specify the year, it shall apply only to the first month and day as described following the date on which the license is issued.

Adopted Ordinance #927 (1960); Amended Ordinance #1522 (1969);

42.036 Extended Duration of License in Special Hardship Cases.

In cases of special hardship, as determined by the County Sheriff, extensions may be granted allowing the permit to remain in affect for additional time, not to exceed a total of ninety (90) days from the proposed beginning date of the sale as described in the original permit.

Adopted Ordinance #927 (1960); Amended Ordinance #1522 (1969);

42.037 Additional Information Requirement.

The application for any permit herein mentioned may require such additional information as will enable the issuing authority to determine any facts needed by it as foundation for any action it is herein authorized expressly or by implication to take.

Adopted Ordinance #927 (1960); Amended Ordinance #1522 (1969);

42.038 Verifications of Applicant.

Wherever herein the applicant is required to give his oath or declaration under penalty of perjury, this may be done by an agent if the applicant is a corporation. Any body politic shall be excluded from these provisions.

Adopted Ordinance #927 (1960); Amended Ordinance #1522 (1969);

42.039 Verified Inventory.

The inventory required by the preceding Section 42.033 shall contain a complete and accurate list of the stock of goods, wares and merchandise to be sold at such sale for which a license is hereby required, together with the wholesale price thereof, which inventory or list shall be signed by the person seeking the license or by a resident agent thereto authorized and by affidavit at the foot thereof he or such agent shall swear or affirm that the information therein given is full and true and known by him or such agent to be so.

Adopted Ordinance #927 (1960); Amended Ordinance #1522 (1969);

DISTRESS SALES

42.0310 Compliance with Terms of Permit.

It shall be unlawful for any person to do any of the acts set forth in Section 42.031, although such person has a valid current Distress Sale License, unless such distress sale is conducted in strict and exact conformance to the description and terms of the said sale, as described in the application for said license, except that, where the terms of the permit differ from the terms of the application therefor, it shall be unlawful to conduct such distress sale contrary to any term of the license.

Adopted Ordinance #927 (1960); Amended Ordinance #1522 (1969);

42.0311 Violation.

It shall be unlawful to sell, offer or expose for sale at any such sale, or to list on such inventory, any goods, wares or merchandise which are not the regular stock of the store or other place, the business of which is to be closed out by such sale, or to make any replenishment or additions to such stock for the purpose of such sale, except those items listed as provided in Section 42.033, subdivision (d), or during the time thereof, or to fail, neglect or refuse to keep accurate records of the articles or things sold, from which records the license-issuing authority may ascertain the kind and quantity of goods sold, and it shall be unlawful to fail to make and keep all records of the distress sale available for inspection at any reasonable business hour by a representative of the San Bernardino County Sheriff's office.

Adopted Ordinance #927 (1960); Amended Ordinance #1522 (1969);

42.0312 Enforcement.

The Sheriff is the officer empowered with the authority and charged with the duty of issuing licenses under this chapter and enforcing the provisions thereof.

Adopted Ordinance #927 (1960); Amended Ordinance #1522 (1969);

SALE OR TRADE OF PERSONAL PROPERTY

Chapter 4

SALE OR TRADE OF PERSONAL PROPERTY (SWAP MEET)

Sections:

- 42.041 To Whom Applicable.
- 42.042 Notice Required.
- 42.043 Definitions.
- 42.044 Emergency Measure.
- 42.045 Violation.

42.041 To Whom Applicable.

Every person who attends a public meeting, assembly or gathering outside the incorporated areas of this County for the purpose of selling, trading, or offering for sale or trade any identifiable, tangible personal property shall, prior to the time that he offers any property by him to the public for sale or exchange, submit a list of all of the identifiable, tangible personal property proposed to be sold or traded together with the other information as set forth in the following section to the owner, manager or proprietor of said premises. Any person who pays a fee for the privilege of selling or trading personal property or who displays any personal property to the public at a "swap meet" or location where personal property is generally sold or traded other than by the licensed owner, lessee, shall be deemed to have attended a public meeting, assembly or gathering for the purpose of selling or trading all identifiable, tangible personal property in his immediate possession, even though some or all of said identifiable, tangible personal property has not been included in the list or property or has not (yet) been offered for sale or exchange.

Amended Ordinance #1125 (1963);

42.042 Notice Required.

The list of property referred to in the previous section shall contain the following: (a) the name, address, and description of the person who proposes to sell or trade identifiable, tangible personal property; (b) an accurate enumeration and description of all of said identifiable, tangible personal property, the description to include the serial number or other identifying mark(s); (c) a certification by the proposed seller or trader that all the information in the form is accurate; that he is the lawful and legal owner of the listed property, and that such property is free of liens and encumbrances.

Upon demand by any peace officer, the owner, manager or proprietor shall deliver him the list of property to compare with the property being sold or traded unless said list is delivered to a peace officer, the owner, manager or proprietor shall deliver said list to the Sheriff of San Bernardino County within twenty-four (24) hours after its submission to the owner, manager or proprietor.

Amended Ordinance #1125 (1963);

42.043 Definition.

"Identifiable, tangible personal property" as used in this chapter means tangible personal property which bears a serial number or personalized initials or inscription and shall include tangible personal property which, at the time it is offered for sale or

SALE OR TRADE OF PERSONAL PROPERTY

exchange, bears evidence of having had a serial number or personalized initials or inscription. Sections 42.041 to 42.045 of this code shall not apply to retail or wholesale business firms operating at permanent locations in San Bernardino County, whose principal business is the sale or resale by the firms themselves of personal property directly to the consumer or retailer.

Amended Ordinance #1125 (1963);

42.044 Emergency Measure.

The Board of Supervisors finds that stolen property has been, and is presently being, sold or traded at public gatherings known as “swap meets”; that innocent purchasers are thereby defrauded; that the opportunity to dispose of stolen property with little risk of detection encourages crime and juvenile delinquency; that the Sheriff of San Bernardino County is unable to control the sale of stolen property or to recover it for its owners without a means of control such as that set forth in this chapter; that the immediate preservation of the public peace and safety required this chapter to be passed as an emergency measure.

Amended Ordinance #1125 (1963);

42.045 Violation.

Any person violating any of the provisions of Sections 42.041 to 42.044 inclusive of this chapter shall be guilty of a misdemeanor. No person shall be deemed to have substantially complied with the provisions of this chapter if (a) he fails to list all identifiable, tangible personal property proposed to be sold or traded; or (b) if he fails to list the correct serial number or identifying mark(s) of said property; or (c) he willfully gives false information on the list relating to the identity of himself or the property even though such information is not specifically required by this chapter.

Amended Ordinance #1125 (1963);

CABLE TELEVISION SYSTEMS

Chapter 5

CABLE TELEVISION SYSTEMS

Sections:

- 42.051 Title.
- 42.052 Purpose and Scope.
- 42.053 Continuation.
- 42.054 Application.
- 42.055 Statutory Provisions Applicable.
- 42.056 Definitions.
- 42.057 License Requirement.
- 42.058 License Area.
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- 42.0510 License Nonexclusive.
- 42.0511 License Review Board.
- 42.0512 Composition of License Review Board.
- 42.0513 License Review Board.
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- 42.0515 License Application Forms.
- 42.0516 License Application and Transfer Fees.
- 42.0517 License Application Procedures.
- 42.0518 Granting of License.
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- 42.0520 Acceptance of License.
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- 42.0522 Transfer or Abandonment of License.
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- 42.0524 License Area Expansion.
- 42.0525 Fees, Costs, and Other Charges.
- 42.0526 Rates.
- 42.0527 Insurance Requirements.
- 42.0528 Bonding Requirements and Other Security.
- 42.0529 Recourse Against Bonds and Other Security.
- 42.0530 Indemnification.
- 42.0531 PEG Availability.
- 42.0532 PEG Utilization.
- 42.0533 Periodic License Review.
- 42.0534 Design and Construction Requirements.
- 42.0535 Technical Standards and Requirements.
- 42.0536 Undergrounding of Cable.
- 42.0537 Street Occupancy.
- 42.0538 Test and Compliance Procedures.
- 42.0539 Service To Applicants,
- 42.0540 Service Standards and Requirements.
- 42.0541 Consumer Service Standards.
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- 42.0546 Subscriber Complaint Procedure Requirements.
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42.051 Title.

This chapter shall be known and cited as the San Bernardino County Cable Television Systems Chapter.

Adopted Ordinance #1281 (1966); Amended Ordinance #2053 (1976); Amended/Adopted Ordinance #2667 (1982); Amended Ordinance #3440 (1991);

42.052 Purpose and Scope.

It is the purpose of this chapter to standardize practices in the cable television industry, to provide for administration of cable television licenses, to regulate rates to the extent allowable by federal, state, and local laws when necessary for the public good, and to regulate the operation of licenses for the purpose of protecting and promoting the public health, safety, and welfare in the interest of the subscriber, licensee, and the public.

Adopted Ordinance #1281 (1966); Amended Ordinance #2053 (1976); Amended/Adopted Ordinance #2667 (1982); Amended Ordinance #2908 (1984); Amended Ordinance #3440 (1991);

42.053 Continuation.

The provisions of this chapter, insofar as they are the same as existing chapter provisions relating to the same subject matter, shall be construed as restatements and continuations thereof, and not as new enactments.

Adopted Ordinance #1281 (1966); Amended Ordinance #2053 (1976); Amended Ordinance #2355 (1979); Amended/Adopted Ordinance #2667 (1982); Amended Ordinance #3440 (1991);

42.054 Application.

All the provisions of this chapter apply to licenses issued pursuant to this chapter. All provisions of this chapter shall, including license fees, apply to existing licensed operating cable television systems in San Bernardino County, unless FCC or PUC regulations require otherwise.

Adopted Ordinance #1281 (1966); Amended Ordinance #2053 (1976); Amended/Adopted Ordinance #2667 (1982); Amended Ordinance #2908 (1984); Amended Ordinance #3440 (1991);

42.055 Statutory Provisions Applicable.

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All licenses for a cable television system shall be granted pursuant to the Federal Cable Communications Policy Act of 1984 and Section 53066 of the Government Code of the State of California.

Adopted Ordinance #1281 (1966); Amended Ordinance #2053 (1976);
Amended/Adopted Ordinance #2667 (1982); Amended Ordinance #2754 (1983);
Amended Ordinance #2908 (1984); Amended Ordinance #3440 (1991);

42.056 Definitions.

For the purpose of this chapter, the following terms, phrases, words, and their derivation, shall have the meaning set forth herein. Words used in the present tense include the future tense, plural words include the singular, and singular words include the plural. Words not specifically defined shall be given their common and ordinary meaning. The word "shall" is also mandatory and not merely directory.

(a) "Access" means the physical extension of cables, wires, conduit and associated fixtures capable of carrying cable service to a point immediately adjacent to the structure or facility to be serviced.

(b) "Advertising receipts" means any and all income, compensation, fees, and other consideration received directly or indirectly by Licensee derived from any form of advertising, relating directly or indirectly to the Licensee's license activities and operations.

(c) "Affiliate" means, when used in relation to any person, another person who owns or controls, is owned or controlled by, or is under common ownership or control with, such person.

(d) "Basic cable service" means any service tier which includes the retransmission of local television broadcast signals including all public, educational, and government use (PEG) channels and all broadcast channels required to be carried pursuant to federal law.

(e) "Basic subscriber receipts" means any and all income, compensation, fees, and other consideration received directly or indirectly by the licensee from subscribers in payment for the basic service of the cable television system.

(f) "Board of Supervisors" means the Board of Supervisors of the County of San Bernardino. If any territory covered by the license falls within the limits of any incorporated city, then as to such incorporated area "board" means the legislative body of such city (e.g., the city council).

(g) "Cable Act" means the Federal Cable Communications Policy Act of 1984, Public Law No. 98-549, 98 stat. 2779 (1984), which amends the Federal Communications Act of 1934 and as hereafter amended.

(h) "Cablecast" means the distribution of programming which originates within the facilities of the cable television system.

(i) "Cable service" means any transmission to or from subscribers and institutional users of video programming and other programming services.

(j) "Cable TV Coordinator" means that person charged with the primary responsibility for the administration of this chapter.

(k) "Cable TV system" means a facility, consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide cable service, but does not include:

(1) A facility that serves only to retransmit the television signals of one or more television broadcast stations;

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(2) A facility that serves only subscribers in one or more multiple unit dwellings under common ownership, control, or management, unless the facility or facilities uses any public right of way.

(3) A facility of a common carrier which is subject, in whole or in part, to the provisions of Title 2 of the Cable Act except that such facility shall be considered a cable system (other than for purposes of section 621(c)) to the extent such facility is used in the transmission of video programming directly to subscribers; or

(4) Any facilities of any electric utility used solely for operating its electric utility systems.

(l) "Cable TV Coordinator" designates a person in the Department of Weights and Measures charged with the responsibility for administering the cable television chapter provisions of the County.

(m) "Channel," or "cable channel" means a portion of the electromagnetic frequency spectrum which is used in a cable system and which is capable of delivering a television signal as defined by the Federal Communications Commission.

(n) "Commencement of operations" means the time and date when sufficient distribution facilities have been installed so as to permit the offering of full service to a dwelling unit located within the license area and such service is actually subscribed to by a resident of the license area.

(o) "Construction" means any new construction, reconstruction, upgrade, mandatory extensions or reconfigurations of the cable television system.

(p) "Construction commencement" means the time and date in a given phase when the first connection is physically made to a utility pole, or undergrounding of cables is initiated, after engineering and mapping is complete, and after all necessary permits and authorizations have been obtained.

(q) "Construction completion" means the point and time when all cable system equipment specified in the license as required under Section 42.0518(b)(5) of this chapter has been installed by the licensee so as to permit the offering of cable service to all the potential subscribers in the license area, as well as the provision, in an operational state, of all facilities required by the license agreement.

(r) "County" means the County of San Bernardino, a political subdivision of the State of California.

(s) "Current Industry Standards" means that level of technical performance or capacity, service, plant or other equipment, production or other facilities, or construction techniques for which there is a reasonable market demand and which has been developed and demonstrated to be workable, and such that it would be economically feasible and viable in the license area during the term of the license.

(t) "Department" means the Department of Weights and Measures, or successor thereto, of the County of San Bernardino.

(u) "Director" means the Director of the Department of Weights and Measures of the County of San Bernardino.

(v) "Division" means the Division of Consumer Affairs of the County of San Bernardino.

(w) "Enhanced service" means any service distributed over the subscriber system for which there is a per channel(s), per unit(s), or per package charge to the subscriber.

(x) "FCC" means the Federal Communications Commission, its designee, or any successor thereto.

(y) "Gross revenues" means any and all income, compensation, fees, and other consideration received directly or indirectly by the licensee and/or its affiliates, and any other person or entity in which the licensee has a financial interest or which has a

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financial interest in the licensee, arising from or attributable to the operation of the cable television system within the unincorporated areas of the County, including, but not limited to, the following sources:

- (1) Installation fees, disconnect and reconnect fees, and fees for cable service derived from operations within the authorized license area;
- (2) Basic subscriber receipts;
- (3) Enhanced service receipts, including, but not limited to, income derived from per-program, or per-channel charges;
- (4) Advertising receipts;
- (5) Lease receipts; and
- (6) Any other income from any source derived from licensee's licensed operations. Excluded are refundable deposits and sales, excise, and other taxes collected for direct pass-through to local, state, or federal governments.

(z) "Head end" means the electronic processing center for the distribution of the signals received from a master antenna or earth stations.

(aa) "Inferior reception quality" means a partial failure of sound or picture of one or more channels affecting one or more subscribers.

(bb) "Installation" means the connection of the system from feeder cable to subscriber's terminals, and the provision of actual service.

(cc) "Lease receipts" means any and all income, compensation, fees, and other consideration received directly or indirectly by the licensee from the lease or rental of license property, and compensation for any services in connection therewith, including but not limited to, studio and equipment rental and production costs of any channel permitted or designated by the FCC to be so leased or rented.

(dd) "License" means any authorization or renewal thereof granted hereunder by the county, whether such authorization is designated as a license, privilege, permit, franchise, resolution, contract, certificate, agreement, or otherwise, which authorizes the construction, operation, and maintenance of a cable television system within a specified area in the unincorporated portions of the county. Any such authorization, in whatever form granted, shall not include any other license or permit as may be required by the county or any other governmental entity.

(ee) "License area" means that geographic portion of the unincorporated area of the county in which the licensee is authorized to construct, operate, and provide connections for a cable television system pursuant to the terms and conditions of the license, and may consist of not more than five (5) service areas.

(ff) "License expansion area" means that geographic portion of the unincorporated area of the county which may be added contiguous to an existing license area.

(gg) "Licensee" means a person, firm, or corporation granted a license by the board under this chapter, and its lawful successor, transferee, or assignee.

(hh) "License Payment Period" means the time period from the effective date of the license agreement through the end of the calendar year in which the license was granted, and each calendar year thereafter during the term of the license.

(ii) "License Review Board" means the board established under this chapter to evaluate applications for cable TV systems, make recommendations to the Board of Supervisors with respect to licenses issued under this chapter, to hear appeals of subscriber complaints, and to administer other related responsibilities.

(jj) "NCTA" means the National Cable Television Association.

(kk) "PEG" means public, educational, and governmental uses as defined in section 611 of the Cable Act.

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(ll) "Person" means any individual, firm, partnership, association, corporation, joint venture, company, syndicate, club, business, common-law trust, society, or other legally recognized entity, whether for profit or, not for profit, but shall not mean the county.

(mm) "Property of Licensee" means all property owned, installed, or used within the county by a licensee in the conduct of a cable television system under authority of a license granted pursuant to this chapter.

(nn) "PUC" means the Public Utilities Commission of the State of California.

(oo) "Section" means any section, subsection, or provision of this chapter.

(pp) "Service Area" means that geographical portion of a license area containing not less than twenty percent (20%) of the license area's population within its boundaries as designated by the licensee.

(qq) "Service Tier" means a category of cable service or other services provided by a cable operator and for which a separate rate is charged by the cable operator.

(rr) "Street" means all of the following which have been or hereafter may be dedicated to the public and maintained under public authority or by others and located within the unincorporated area of the county: streets, roadways, highways, avenues, lanes, alleys, sidewalks, easements, rights-of-way, green belts, and similar public property and areas which the county shall determine to be included within the definition of "street" from time to time.

(ss) "Subscriber" means any person lawfully receiving for any purpose, any service of the licensee's cable television system, including the ultimate recipient of any distribution of the licensee's service.

(tt) "System outages" means the following interruptions to subscriber service:

(1) "System outage" -- total failure of sound and picture of all channels affecting at least ten percent (10%) of the system's subscribers.

(2) Isolated outage" -- total failure of sound and picture of one or more channels affecting less than ten percent (10%) of the system's subscribers.

Adopted Ordinance #1281 (1966); Amended Ordinance #2053 (1976);
Amended/Adopted Ordinance #2667 (1982); Amended Ordinance #2908 (1984);
Amended Ordinance #3440 (1991);

42.057 License Requirement.

No cable TV system shall within the unincorporated areas of San Bernardino County be allowed to begin construction, occupy or use the streets or public utility poles or rights-of-way, or operate without a license issued in accordance with the provisions of this chapter.

Adopted Ordinance #1281 (1966); Amended Ordinance #2053 (1976);
Amended/Adopted Ordinance #2667 (1982); Amended Ordinance #3440 (1991);

42.058 License Area.

The County may grant one or more licenses for any area within the unincorporated portions of San Bernardino County. Each license area shall be defined by a legal description and such maps as required by the Department, to a scale prescribed by the Director, and which maps shall describe and specifically designate the initial and subsequent, if any, service areas.

Adopted Ordinance #1281 (1966); Amended Ordinance #2053 (1976);
Amended/Adopted Ordinance #2667 (1982); Amended Ordinance #3440 (1991);

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42.059 Term.

The term of any new license or renewal of an existing license shall not exceed fifteen (15) years, and shall be subject to earlier termination as hereinafter provided.

Adopted Ordinance #1281 (1966); Amended Ordinance #2053 (1976);
Amended/Adopted Ordinance #2667 (1982); Amended Ordinance #3440 (1991);

42.0510 License Nonexclusive.

Any license granted shall be nonexclusive. The County specifically reserves the right to grant, at any time, such additional licenses for cable television systems as it deems appropriate to the public interest, provided, however, that such additional grant shall not operate to materially modify, revoke, reduce, or terminate any rights previously granted to any licensee.

Adopted Ordinance #1281 (1966); Amended Ordinance #2053 (1976);
Amended/Adopted Ordinance #2667 (1982); Amended Ordinance #3440 (1991);

42.0511 License Review Board.

A License Review Board is hereby established to review license applications and make recommendations to the Board of Supervisors for licenses issued under this chapter, hear appeals of subscriber complaints, and to administer other related responsibilities as the Board of Supervisors may require.

Adopted Ordinance #1281 (1966); Amended Ordinance #2053 (1976);
Amended/Adopted Ordinance #2667 (1982); Amended Ordinance #3440 (1991);

42.0512 Composition of License Review Board.

(a) Membership. The members of the License Review Board shall consist of the following: the Director or his/her designee, who shall chair the License Review Board; the Assistant Administrative Officer for the General Services Group or his/her designer; the County Treasurer/Tax Collector or his/her designee; the Director of the County Department of Transportation or his/her designee; the Director of the Communications Division of the Office of Management Services or his/her designee; a representative from the Cable Television Industry who has no interest, direct or indirect in the matter under consideration; and a consumer lay person.

(b) Voting. Each member of the License Review Board shall have one (1) vote except for the Director who shall only vote in the event of a tie vote among the other voting members. The Director and four (4) members present shall constitute a quorum.

(c) Support. The Cable TV Coordinator shall provide staff support to the License Review Board as needed.

Adopted Ordinance #1281 (1966); Amended Ordinance #2053 (1976);
Amended/Adopted Ordinance #2667 (1982); Amended Ordinance #3440 (1991);
Amended Ordinance #3497 (1992);

42.0513 License Review Board.

Any matter which may come before the License Review Board shall be open to the public. The time, date, and place of meetings and hearings shall be determined by the Director.

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Adopted Ordinance #1281 (1966); Amended Ordinance #2053 (1976); Amended Ordinance #2355 (1979); Amended/Adopted Ordinance #2667 (1982); Amended Ordinance #3440 (1991);

42.0514 Conduct of License Review Board Meetings.

At the time and place set for meetings of the License Review Board, or at the time and place which the meeting may be continued by the Director or his representative, the License Review Board shall hear an applicant, a Licensee, or interested party, who may testify and present any evidence as to the subject matter of such proceedings.

Adopted Ordinance #1281 (1966); Amended Ordinance #2053 (1976); Amended/Adopted Ordinance #2667 (1982); Amended Ordinance #3440 (1991);

42.0515 License Application Forms.

Applicants shall obtain license application forms from the Department.

Adopted Ordinance #1281 (1966); Amended Ordinance #2053 (1976); Amended/Adopted Ordinance #2667 (1982); Amended Ordinance #3440 (1991);

42.0516 License Application and Transfer Fees.

All license applications or applications to transfer a license, when filed, shall be accompanied by payment of a nonrefundable fee, which shall be in the form of cash, certified or cashier's check, or money order, payable to the County, to pay for the cost of processing and evaluating the application. Such fee amounts shall be set forth in the fee provisions of the County Code.

Adopted Ordinance #1281 (1966); Amended Ordinance #2053 (1976); Amended/Adopted Ordinance #2667 (1982); Amended Ordinance #2775 (1983); Amended Ordinance #2908 (1984); Amended Ordinance #3440 (1991);

42.0517 License Application Procedures.

All license applications, when filed, shall be available for public inspection at places designated by the County within the proposed license area. Not later than sixty (60) days after any application has been received, one or more public meetings pursuant to Sections 42.0513 and 42.0514 shall be held on the application by the License Review Board. The License Review Board shall, within thirty (30) days following the final public meeting, or no more than ninety (90) days following the application's receipt, whichever occurs first, forward to the Board of Supervisors its evaluation of the application together with its findings and recommendations as to the granting or denial of a license. The Board of Supervisors shall then grant or deny the license within thirty (30) days following its receipt of the License Review Board's recommendations.

Adopted Ordinance #1281 (1966); Amended Ordinance #2053 (1976); Amended/Adopted Ordinance #2667 (1982); Amended Ordinance #2908 (1984); Amended Ordinance #3440 (1991);

42.0518 Granting of License.

(a) Public Hearing. A license may be granted by the Board or Supervisors pursuant to this chapter following a public meeting conducted by the License Review Board.

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(b) Requirements. Any license granted pursuant to this chapter will be granted only upon the applicant's satisfaction of the following criteria:

(1) Applicant's completion of such application form as the Director may deem necessary to properly evaluate the applicant's legal, technical, and financial qualifications;

(2) Proof of the applicant's ability to conduct a viable business operation for a minimum of two (2) years following the granting of a license;

(3) Proof of technical ability to provide current industry standards of performance with respect to quality of audio and video signals received by subscribers;

(4) A construction schedule designating service areas and describing the sequence in which service shall be extended within the license area pursuant to County Code Section 42.0521;

(5) Execution of a licensing agreement in such form and including such terms as may be required by the Board of Supervisors;

(6) Submission of Licensee's written procedure for receiving, acting upon, and resolving subscriber complaints pursuant to Section 42.0545 of this chapter; and

(7) Satisfaction of such other requirements as the Board of Supervisors may deem necessary.

(c) Filing of License. All licenses granted under this chapter shall be filed with the Clerk of the Board of Supervisors and a copy shall be maintained by the Department.

Adopted Ordinance #1281 (1966); Amended Ordinance #2053 (1976);
Amended/Adopted Ordinance #2667 (1982); Amended Ordinance #2754 (1983);
Amended Ordinance #3440 (1991);

42.0519 Denial of License.

The following constitute grounds for denial of a license:

(a) Failure to satisfy application requirements.

(b) Knowingly making any false, misleading, or fraudulent statement of a material fact in the application for license or to the Cable Coordinator, Director, County employees, License Review Board, or Board of Supervisors with regard to a license application.

(c) Conviction within the past five (5) years of the applicant, or a principal officer, director, majority or controlling shareholder, or partner of the applicant of a crime of fraud, embezzlement, burglary, or theft.

(d) Previous violations by applicant, or a principal officer, director, majority or controlling shareholder, partner, or parent or subsidiary company of applicant of the Cable Act, laws of the State of California regarding the use or regulation of cable TV systems, or any County Code provision or rule or regulation adopted by the Board of Supervisors relating to cable TV systems.

Adopted Ordinance #1281 (1966); Amended Ordinance #2053 (1976);
Amended/Adopted Ordinance #2667 (1982); Amended Ordinance #2775 (1983);
Amended Ordinance #3440 (1991);

42.0520 Acceptance of License.

The licensee shall within thirty (30) days after the granting of the license by the Board of Supervisors, file with the Director a performance bond, and/or other security

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pursuant to Section 42.0528, together with evidence of insurance as required by Section 42.0527. Any license granted by the Board of Supervisors pursuant to this chapter shall not be operative until such time as the Licensee satisfies the above requirements.

Adopted Ordinance #1281 (1966); Amended Ordinance #2053 (1976);
Amended/Adopted Ordinance #2667 (1982); Amended Ordinance #2754 (1983);
Amended Ordinance #3440 (1991);

42.0521 Establishment and Extension of Service.

Except as provided under Government Code Section 53066.2, and subject to County approval, the licensee shall design and construct the cable system in a manner so as to provide the capability to pass every single-family dwelling unit, multiple-family dwelling, school, and public agency within the license area. Within one (1) year after receiving the license, the Licensee shall accomplish construction of an operable head-end and shall make cable service available to not less than one service area, and each year thereafter shall expand service coverage by no less than an additional service area per year so as to achieve one hundred percent (100%) build-out of the license area within the five (5) years following the grant of the license.

Adopted Ordinance #1281 (1966); Amended Ordinance #2053 (1976);
Amended/Adopted Ordinance #2667 (1982); Amended Ordinance #3440 (1991);

42.0522 Transfer or Abandonment of License.

(a) License Transfers. Any license granted hereunder shall be a privilege to be held for the benefit of the public. Said license cannot in any event be sold, transferred, leased, or disposed of, without the prior written consent of the County, and subject to such reasonable conditions as the Board of Supervisors may require. Consent to transfer will not be unreasonably withheld by the County.

(b) Methods of Transfer. for the purposes of this section, the term "transfer" shall include, but not be limited to, changes in the ownership of the cable TV system operated under the license by means of forced or voluntary sale, merger, consolidation, receivership, or sale of the majority or controlling interest of the Licensee's corporate stock.

(c) Consent to Transfer. In seeking the County's consent to any transfer of a license, the Licensee shall follow the application procedures set forth in Sections 42.0515 through 42.0520 of this chapter.

Adopted Ordinance #1281 (1966); Amended Ordinance #2053 (1976);
Amended/Adopted Ordinance #2667 (1982); Amended Ordinance #3440 (1991);

42.0523 Modification of License.

Upon the request of the Licensee or Director, the terms and conditions of any license granted under this chapter, may at any time during the term of the license be amended or modified at a public meeting by the Board of Supervisors, provided such amendment or modification is consistent with the Cable Act and rules and regulations of the FCC.

Adopted Ordinance #1281 (1966); Amended Ordinance #2053 (1976);
Amended/Adopted Ordinance #2667 (1982); Amended Ordinance #3440 (1991);

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42.0524 License Area Expansion.

During the term of the license, should Licensee determine that any adjacent areas not included in the original license application warrant the extension of cable TV services, the Licensee may apply to the Department for approval to extend services to such areas.

(a) Application. Licensee shall apply to the Department for approval of such license area expansion. The application shall include, but not be limited to, maps of the area(s) to be constructed, a construction schedule, a copy of the Subscriber Complaint Record as required by Section 42.0546(b), and such other information as may be required by the Director.

(b) License Area Expansion Fee. All license area expansion applications, when filed, shall be accompanied by payment of a nonrefundable application fee, which shall be in the form of cash, certified or cashier's check, or money order to pay for the cost of processing and evaluating the application. Application fee amounts shall be set forth in the County Code fee provisions.

(c) Approval. Upon receipt of the Licensee's application for the license area expansion, the matter will be submitted to the License Review Board and Board of Supervisors in accordance with Section 42.0517.

(d) Term. After approval of the license area expansion by the Board of Supervisors, and upon notification by the Licensee that the construction of said area(s) has been completed, said area(s) shall be considered a part of the license area, and the term of the license for such expansion area(s) shall expire when the term of the original license expires. The Director shall provide written notice to the Licensee to this effect, and copies of said notice shall be filed with the Clerk of the Board and the Department.

(e) Service. As a condition to expansion of the license area, Licensee shall within five (5) years following approval of a license expansion area, complete all construction and provide all subscribers within that area with the same services at the same rates as charged other subscribers within the original license area.

Adopted Ordinance #1281 (1966); Amended Ordinance #2053 (1976);
Amended/Adopted Ordinance #2667 (1982); Amended Ordinance #3440 (1991);

42.0525 Fees, Costs, and Other Charges.

(a) Annual License Fee. As consideration for the license granted, Licensee shall pay to the Department in lawful money of the United States, payable to the County, during the life of the license, for each and every year, including the prorated portion of the year in which the license was granted, five percent (5%) of the gross revenues received by Licensee for all cable television services rendered to customers within the license area. License fees shall be due no later than first day of March of each year. In the event Licensee fails to make payment of the license fee on or before the due date, the County shall assess a late payment charge of ten percent (10%) of the amount due, with an additional ten percent (10%) accruing on the first day of each calendar month thereafter that the license fee remains unpaid, Any license fee more than ninety (90) days delinquent shall constitute a material breach of the terms of the license and is grounds for license revocation. The County reserves the right to change the amount of such license fee if the County determines such action to be appropriate and that it is not in conflict with federal law, FCC Rules and Regulations, or laws of the State of California.

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(b) Other Fees. Fees regarding license grant, renewal, transfer, modification, and license area expansion shall be set forth in the fee provisions of the San Bernardino County Code.

(c) Cost of Technical Assistance. The Licensee shall pay all reasonable costs incurred by the County for any technical assistance deemed necessary by the County for obtaining independent verification of technical compliance with all license standards.

(d) Charge for Underreported Revenue. If the report of gross revenue made by Licensee should be found to be less than the amount of gross revenue disclosed by audit, the Licensee shall pay to the County the delinquent amount and all charges required by subsection (a) above, within thirty (30) days of billing thereof.

(e) Independent Audit at Licensee's Costs. The County reserves the right to require the Licensee to obtain, at Licensee's cost, an independent audit of gross revenue by certified public accountants as required by the County. The certified public accountant shall be required to certify in the audit that the license is in compliance with this chapter and the license agreement. This right shall be in addition to the County's right to conduct any other audit.

Adopted Ordinance #1281 (1966); Amended Ordinance #2053 (1976);
Amended/Adopted Ordinance #2667 (1982); Amended Ordinance #3440 (1991);

42.0526 Rates.

To the extent permitted by law, the County reserves the right to regulate the Licensee's rates for its services (excluding bulk rates and limited time promotional discounts).

Adopted Ordinance #1281 (1966); Amended Ordinance #2053 (1976);
Amended/Adopted Ordinance #2667 (1982); Amended Ordinance #3440 (1991);

42.0527 Insurance Requirements.

The Licensee shall provide, and maintain, at its own expense during the term of its license, programs of insurance covering its operations hereunder, as set forth below. Such insurance shall be provided by insurer(s) authorized by the Insurance Commissioner of the State of California to transact business in the State of California. Satisfactory evidence of such insurance consisting of copies of the actual insurance policies and/or certificates of insurance shall be delivered to the Director on or before the effective date of license. Insurance policies and certificates evidencing coverage shall name the County, its officers, agents, and employees as additional insureds with respect to Licensee's operations under the license, and shall contain express conditions that the County is to be given written notice by registered mail at least thirty (30) days in advance of any modification or termination of any insurance policy.

(a) Comprehensive General Liability Insurance. Licensee shall obtain comprehensive liability insurance endorsed for premises/operations, products/completed operations, contractual, broad form property damage, and personal injury with a combined single limit per occurrence as may be set by the County Risk Management Division. If the above insurance is written on a claims-made form, such insurance shall be endorsed to provide an extended reporting period of not less than five (5) years following termination of policy. Licensee shall also obtain comprehensive auto liability insurance endorsed for all owned and hired vehicles with a combined single limit per occurrence as may be set by the County Risk Management Division. Said amounts of insurance shall be subject to review and adjustment by the County, at the

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County's sole option at any time during the period of the license. In the event of such adjustment, Licensee agrees to provide insurance in such amounts as are determined by the County Risk Management Division, within thirty (30) days after written notice to do so from the Director.

(b) Worker's Compensation. Licensee shall obtain Worker's Compensation Insurance in an amount and form to meet all applicable requirements of the Labor Code of the State of California, including employer's liability insurance with a limit as may be set by the County Risk Management Division covering all persons providing services on behalf of Licensee and all risk to such persons under the license. Licensee shall provide, if applicable, a certificate of consent to self-insure issued by the Director of Industrial Relations of the State of California. Should the Licensee utilize the self-insurance provision of this section, and should the Licensee's certification of consent to self-insure expire or be revoked, the Licensee shall be required to obtain Worker's Compensation Insurance prior to or upon said expiration or revocation.

(c) Uninsured Operations. No license operation shall commence until Licensee has complied with all the aforementioned provisions of this section, and any such operation shall be suspended during any period that Licensee fails to maintain required insurance in full force and effect.

Adopted Ordinance #1281 (1966); Amended Ordinance #2053 (1976);
Amended/Adopted Ordinance #2667 (1982); Amended Ordinance #3440 (1991);

42.0528 Bonding Requirements and Other Security.

All bonds required hereunder shall be in a form and executed by a corporate surety acceptable to the County and licensed to transact business as a surety within the State of California.

(a) Performance Bond. Within thirty (30) days of the granting of the license required under Section 42.057, the Licensee shall file with the Treasurer/Tax Collector a bond payable to the County, which shall be calculated as five percent (5%) of the annual projected gross revenue of the Licensee or ten thousand dollars (\$10,000) whichever is greater. Such bond shall be maintained in full force and effect at all times during the term of the license. Said bond shall ensure the faithful performance of the Licensee of the terms and conditions of the license and shall provide that, in the case of any breach of a condition of the license, the bond amount shall be applied to the County's damages and shall be payable to the County by the principals and sureties of the bonding company. Other security may be approved by the License Review Board in lieu of or in combination with the performance bond.

(b) Other security in Lieu of Bond. Licensee may request of the License Review Board that in addition to, and/or in lieu of, the performance bond as set forth under Section 42.0528(a), above, Licensee provide other security to the County in an amount not to exceed the bond amount as determined under Section 42.0528(a) above. Such other security must be in a form acceptable to the License Review Board, and at the License Review Board's sole discretion, may consist of cash, assignment of savings and loan certificates, certificates of deposits, irrevocable letters of credit, or U.S. Government securities. All such other security shall be made payable to the County and shall be deposited with the Treasurer/Tax Collector. The Licensee, however, shall be entitled to the return of such other security, less any accrued interest of any cash deposit held by County, or such portion thereof which remains on deposit, not later than one (1) year after the expiration of the term of the license, provided there is at that time no outstanding default on the part of Licensee.

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(c) Review and Adjustment. The amounts of the performance bond and/or other security shall be subject to review and adjustment by the License Review Board, and the License Review Board, for reasonable cause, may adjust the amount at any time during the term of the license. In the event of such an adjustment, the Licensee shall renew said bond, within thirty (30) days after written notice to do so.

(d) Continuance of Performance Bond and/or Other Security Upon Transfer of License. Said performance bond shall continue to exist until replaced by a new performance bond or other security satisfactory to the County, or for one (1) year following the Board of Supervisors' approval of any sale, transfer, assignment, or other change of ownership of the license, or the expiration or termination of the license, whichever is sooner, for the purpose of assuring Licensee's faithful performance under the terms and conditions of the license prior to the date of approval of such change of ownership and/or of expiration or termination. The Treasurer/Tax Collector may release said bond prior to the end of such one (1) year period upon authorization of the Department and satisfaction by the Licensee of all said obligations under the license.

(e) No Limitation of Licensee's Liability. In no event, shall the amount of any performance bond posted by Licensee be construed to limit the liability to the County of said Licensee or limit Licensee's obligation to faithfully perform the terms of the license.

(f) Other Bonds. Nothing in this section shall prohibit or preclude any other County agency from requiring Licensee to post a bond or other undertaking in connection with operations under its license.

Adopted Ordinance #1281 (1966); Amended Ordinance #2053 (1976);
Amended/Adopted Ordinance #2667 (1982); Amended Ordinance #3440 (1991);

42.0529 Recourse Against Bonds and Other Security.

Bonds and other security may be utilized by the County for the purposes, including, but not limited to, reimbursement of the County by reason of the Licensee's failure to pay the County any sums due under the terms of this chapter or the license, reimbursement of the County for reasonable costs borne by the County to correct license violations not corrected by the Licensee after due notice; and monetary remedies or damages assessed against the Licensee due to default or violations of the license requirements of this chapter.

(a) Recourse. In the event Licensee has been declared to be in default by the License Review Board under Section 42.0556(b), and if the Licensee fails, within thirty (30) days of mailing of the License Review Board's Finding, to pay the County any license fee, penalties, or monetary sanctions, or fails to perform any of the conditions of the license, the County may thereafter foreclose against the performance bond and/or withdraw from any other security an amount sufficient to compensate the County's damages, with interest at the legal rate. Upon such foreclosure or withdrawal, the County shall notify the Licensee in writing, by First Class Mail, postage prepaid, of the amount and date thereof.

(b) Restoration. Within thirty (30) days after mailing notice to the Licensee that the County has foreclosed Licensee's performance bond or that any amount has been withdrawn by the County from the other security pursuant to subsection (a) above, the Licensee shall deposit such further bond or sum of money, or other security, as the County may require, sufficient to meet the requirements of this chapter.

(c) Rights of the County. The rights reserved to the County with respect to any bond or security are in addition to all other rights of the County whether reserved by this chapter or authorized by law, and no action, proceeding, or exercise of a right with

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respect to any bond or other security shall constitute an election or waiver of any rights or other remedies the County may have.

Adopted Ordinance #1281 (1966); Amended Ordinance #2053 (1976);
Amended/Adopted Ordinance #2667 (1982); Amended Ordinance #3440 (1991);

42.0530 Indemnification.

{a) Claims for License-related Activities. A Licensee shall, by acceptance of any license granted, indemnify, defend, and hold harmless the County, its officers, boards, commissions, agents, and employees from and against any and all losses, damages, liabilities, claims, suits, costs and expenses, including reasonable attorney's fees regardless of the outcome of any such claim or suit arising from any act or omission on the part of the Licensee, its officers, employees, agents, or subcontractors arising from activities or work conducted pursuant to the license.

(b) Claims of Suppliers and Employees of Licensee. A Licensee shall indemnify, defend, and hold harmless the County and its officers, agents, and employees from and against any and all claims from losses whatsoever, including reasonable attorney's fees, accruing and resulting from any and all persons, firms, or corporations furnishing or supplying work, services, materials, equipment, or supplies in connection with work or activities conducted or performed pursuant to the license, and arising out of such activities or work, and from any and all claims or losses whatsoever, including reasonable attorney's fees, accruing or resulting from any person, firm, or corporation for damage, injury, or death arising out of Licensee's licensed operation.

(c) Nature of Claims. Such indemnification shall include, but not be limited to, all claims arising in tort, contracts, civil rights, infringements of copyright, violations of statutes, ordinances, regulations, or otherwise. Provided, however, that the County in its sole discretion may participate in the defense of any such claim at its own expense, and in such event, Licensee shall not agree to any settlement of claims without County approval.

(d) Exemption. Licensee shall not be required to indemnify the County for negligence or willful misconduct on the part of the County, or its officials, boards, commissions, agents, or employees.

Adopted Ordinance #1281 (1966); Amended Ordinance #2053 (1976);
Amended/Adopted Ordinance #2667 (1982); Amended Ordinance #3440 (1991);

42.0531 PEG Availability.

(a) License Conditional on PEG Availability. The grant of a license under this chapter shall be conditioned upon Licensee providing, at Licensee's expense, one (1) basic service cable drop to any government building within the license area, including schools, within 750 feet of any existing cable distribution facilities, within a reasonable period after Licensee's receipt of a request from the agency operating or administering that site.

(b) Notification of PEG Availability. Prior to its initiating service within any newly constructed area, Licensee shall notify all government agencies having buildings within that area of the availability of cable access.

Adopted Ordinance #1281 (1966); Amended Ordinance #2053 (1976);
Amended/Adopted Ordinance #2667 (1982); Amended Ordinance #3440 (1991);

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42.0532 PEG Utilization.

In accordance with Section 611 of the Cable Act, the County may, at no cost to the County, utilize a portion of the cable TV system's capacity and associated facilities and resources to develop noncommercial PEG cable TV services in the public interest, and the Licensee shall provide such capacity, facilities and resources upon the County's request. For this purpose, the County may additionally establish a commission, public corporation, or other entity to receive and allocate facilities, equipment, support funds, and other considerations provided by the County, the Licensee, and/or others. The County or such an entity, if established, may exercise the following responsibilities:

- (a) To receive and utilize, or allocate for utilization, channel capacity, facilities, funding, and other support provided specifically for public usage of the cable TV system.
- (b) To plan, prepare, coordinate and implement emergency communication during the event of an emergency or natural disaster within the County.
- (c) Review the status and progress of each service developed for public benefits.
- (d) Allocate resources jointly with the Licensee on a periodic basis to conform with changing priorities and public needs.
- (e) Report to the County and the Licensee annually on the utilization of resources, new public services developed, and benefits achieved for the County and its residents.

Adopted Ordinance #1281 (1966); Amended Ordinance #2053 (1976);
Amended/Adopted Ordinance #2667 (1982); Amended Ordinance #3440 (1991);

42.0533 Periodic License Review.

At the County's sole option, the License Review Board may hold one or more public hearings as provided in Sections 42.0513 and 42.0514 at which the Licensee shall be present and shall participate, to review Licensee's compliance with the terms and conditions of its license and this chapter and the performance and quality of the service of the Licensee's cable TV system. The reports required by Section 42.0546 regarding subscriber complaints, the records of performance tests, and opinion survey reports may be utilized as a basis for review. In addition, any subscriber may submit comments or complaints during the reviews, either orally or in writing.

(a) Areas of Inquiry. Topics for review and discussion shall include, but shall not be limited to, license area and license area expansion, services provided, feasibility of providing new services, application of new technologies, system performance, programming, subscriber complaints, user complaints, rights of privacy, amendments to the license, undergrounding process, developments in the law and regulatory constraints.

(b) License Review Board Report. Not later than sixty (60) days after the conclusion of the license review hearings, the License Review Board shall issue its report which may include recommendations to the Licensee with regard to the inadequacies identified through the hearing process and set a timetable for Licensee to institute and complete corrective measures.

Adopted Ordinance #1281 (1966); Amended Ordinance #2053 (1976);
Amended/Adopted Ordinance #2667 (1982); Amended Ordinance #2754 (1983);
Amended Ordinance #3440 (1991);

42.0534 Design and Construction Requirements.

(a) Design and Construction. The cable television system and all license property and appurtenances shall be designed, installed, constructed, and maintained using the current industry standard regarding components, materials, and methods. The Licensee

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shall at all times comply with all current applicable state, federal, and County standards. All of the Licensee's plant and equipment, including but not limited to, the antenna sites, head-end and distribution system towers, dwelling connections, structures, poles, wires, cables, coaxial cables, fixtures, and appurtenances shall be designed, located, installed, erected, constructed, reconstructed, replaced, removed, repaired, operated, and maintained in accordance with good engineering practices and such work shall be performed by experienced construction and maintenance personnel so as not to endanger or interfere in any manner with the rights of any property owner, or to hinder, or to obstruct pedestrian or vehicular traffic. The Licensee shall additionally comply with all applicable County construction codes and permit procedures. County shall be entitled to charge reasonable permit and inspection fees to recover processing and inspection costs incurred as a result of the construction of the cubic TV system. Notwithstanding the granting of a license, the Licensee shall not be authorized to do any work under the license for which issuance of a permit is required unless and until such permit is issued for such work. The Licensee shall not have an absolute right to the issuance of such permits.

(b) Sanitation Facilities. For all construction or maintenance projects by Licensee requiring the Licensee and/or any subcontractor employed by the Licensee to be present on any work site continuously for four (4) hours or more. the Licensee or its subcontractor shall provide portable toilets for the use of the workers employed on such projects.

Adopted Ordinance #1281 (1966); Amended Ordinance #2053 (1976);
Amended/Adopted Ordinance #2667 (1982); Amended Ordinance #2754 (1983);
Amended Ordinance #3440 (1991); Amended Ordinance #3497 (1992);

42.0535 Technical Standards and Requirements.

The cable television system shall be designed in accordance with the following:

(a) Cablecasting Capability. The Licensee shall provide cable-casting capabilities and facilities in accordance with requirements of Section 42.0532 of this chapter and the license.

(b) Signal Quality. The signals produced by the system shall be of high quality throughout the system using commonly accepted industry standards whether in close proximity to the head-end or the farthest extension of the trunk line. Licensee shall distribute in color those television signals which it receives in color. The system, as installed, shall be capable of passing standard black-and-white and color video channels with associated audio signals without material degradation and with no phase shift and no effect on color fidelity.

(c) Safety Requirements. The Licensee shall at all times utilize professional care and shall design, install, and maintain in use, devices and methods aimed at prevention of failures and accidents which may cause damage, injury, or nuisance to the public. Construction practices shall be in conformance with all applicable sections of federal and state occupational safety acts and any amendments thereto, as well as other state and county safety codes, where applicable.

(d) Interconnection. The County may request the Licensee to interconnect PEG channels of the cable television system with any and all other contiguous and compatible cable systems. Interconnection of system shall permit interaction transmission and reception of program material, and may be accomplished by direct cable connection, microwave link, satellite, or other technically feasible method. Each system component, whether as a part of a new system, as an extension of an existing

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system, or as a replacement for an existing system shall be designed to provide bi-directional interconnecting capability. Further, the system shall be designed to use the same broadcast spectrum frequency allocations for commonly provided television signals within the license area, so far as technically and economically feasible. In addition, every reasonable effort shall be made to provide local origination and access equipment which is compatible throughout the license area. The procedure relating to interconnection is set forth below:

(1) Upon receiving request of the County to interconnect, the Licensee shall immediately initiate negotiations with other affected system(s), and shall report to the County the results of such negotiations no later than sixty (60) days after initiation.

(2) Licensee may be granted additional reasonable extensions of time to interconnect, or the County may rescind its request to interconnect upon petition of the Licensee, if the County finds that the licensee has negotiated in good faith and has failed to obtain approval from the system(s) of the proposed interconnection, or that the cost of interconnection would cause an unreasonable financial burden as determined by the License Review Board upon the Licensee and/or its subscribers.

(3) The Licensee shall cooperate with any interconnecting corporation, regional interconnection authority or city, county, state, or federal regulatory agency which may hereafter be established for the purpose of regulating, financing, or otherwise providing for interconnection of cable systems beyond the boundaries of the license area.

(e) Emergency Override. The Licensee shall incorporate into its cable television system the capability to permit the County in times of emergency to override the audio portion of all channels simultaneously. In addition, the Licensee may be required to designate a channel, which may be a PEG channel, to be used for emergency broadcasts of both audio and video. The Licensee shall cooperate with the County in the use and operation of the emergency alert override system.

(f) Technical Documentation. Upon request of the Director, Licensee shall provide technical documentation of the cable television system as installed. Such documentation shall include, but is not limited to, head-end equipment and location, satellite receiving antenna location, and technical parameters, and the primary cable routing, but need not include each subscriber drop.

Adopted Ordinance #1281 (1966); Amended Ordinance #2053 (1976);
Amended/Adopted Ordinance #2667 (1982); Amended Ordinance #2754 (1983);
Amended Ordinance #3440 (1991);

42.0536 Undergrounding of Cable.

The undergrounding and placement within conduits of all system cable is encouraged, and the County reserves the right to require undergrounding and placement of cable within conduit as a condition of the license. In any event, cable shall be installed underground at Licensee's cost in all license areas where utilities are already underground or where required by law. Previously installed aerial cable shall be relocated and placed underground in concert with all other utilities.

Adopted Ordinance #1281 (1966); Amended Ordinance #2053 (1976);
Amended/Adopted Ordinance #2667 (1982); Amended Ordinance #3440 (1991);

42.0537 Street Occupancy.

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(a) Notification of County Department of Transportation. The Licensee shall notify the County Department of Transportation at least ten (10) days prior to the fact, of intention of the Licensee to commence any construction in the streets. The County shall cooperate with the Licensee in granting any permits required, provided such granting and subsequent construction by the Licensee shall not unduly interfere with the use of such streets, and that proposed construction shall be accomplished in accordance with the County Code.

(b) Installation. All transmission lines, equipment, and structures shall be located and installed so as to cause minimum interference with the rights and reasonable convenience of property owners, and at all times shall be maintained in a safe condition, and in good order and repair. Suitable barricades, flags, lights, flares, or other devices shall be used at such times and places as are reasonably required for the safety of the public. Any poles or other fixtures placed in any street by the Licensee shall be placed in such manner as not to interfere with the usual travel on such public way.

(c) Pole Utilization. All pole construction and installation shall be in accordance with California Public Utilities Commission General Order No. 95, "Rules for Overhead Electric Line Construction".

(d) Interference with Use of Streets. In installing, locating, laying, or maintaining facilities, apparatus, or improvements, the Licensee shall not interfere with the use of any street to any greater extent than is necessary, and shall leave the surface of any such street in as good condition as it was prior to performance by Licensee of such work. Any facility, apparatus, or improvement under this license shall be laid, installed, located, or maintained in conformance with instructions given by, and to the satisfaction of, the Director of the County Department of Transportation or his deputy. In any event, the Licensee shall, at its own expense, and in a manner approved by the County, restore to County standards and specifications any damage or disturbance caused to streets as a result of Licensee's construction or operations.

(e) Tree Trimming and Landscaping. The Licensee shall have the authority, subject to the approval and supervision of the County Department of Transportation, to trim trees on public property at its own expense, as may be necessary to protect its wires and facilities. Licensee shall make prompt repairs and restoration to all landscaping within County rights-of-ways.

(f) Relocation/Removal. Upon receipt of thirty (30) days prior written notice, the Licensee, at its own expense, shall protect, support, temporarily disconnect, relocate, or remove any of its property when, in the judgment of the Director, the same is required by reason of traffic conditions, public safety, and/or improvements by governmental agencies. Nothing herein shall be deemed a taking of the property of the Licensee, and Licensee shall be entitled to no surcharge by reason of this section. After receipt of thirty (30) days prior written notice, upon failure of the Licensee to commence, pursue, or complete any work required by the provisions of this chapter to be performed on any street, within the time prescribed and to the satisfaction of the County, the County may, at its option, cause such work to be done, and the Licensee shall pay to the County the reasonable cost thereof, within thirty (30) days after receipt of demand.

Adopted Ordinance #1281 (1966); Amended Ordinance #2053 (1976);
Amended/Adopted Ordinance #2667 (1982); Amended Ordinance #3440 (1991);

42.0538 Test and Compliance Procedures.

Licensee shall obtain and submit upon request of the Director, the following reports:

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(a) FCC Signal Performance. Licensee shall comply with all FCC signal performance standards, and as an aid to the County in monitoring the signal strength and quality, the Licensee shall provide the County with copies of all FCC signal performance reports. Should the FCC no longer require signal performance reports, the Licensee shall make and submit such performance tests and reports in response to written requests by the County.

(b) Special Tests. At any time after commencement of service to subscribers, the County or any other governmental regulatory agency may require additional tests, full or partial repeat tests, different test procedures, or tests involving a specific subscriber's terminal. Copies of all such test results shall be provided to the Director. Requests by the County for such special tests will be made on the basis of complaints received or other evidence indicating an unresolved controversy or significant noncompliance, and such tests shall be limited to the particular matter in controversy.

(c) Costs of Tests. The costs of all tests required above, and retesting as necessary, shall be borne by the Licensee.

Adopted Ordinance #1281 (1966); Amended Ordinance #2053 (1976);
Amended/Adopted Ordinance #2667 (1982); Amended Ordinance #3440 (1991);

42.0539 Service to Applicants.

Subject to the build-out requirements of Section 42.0521 of the San Bernardino County Code, and upon receipt of a request for basic service to any residence within the Licensee's service area, the Licensee shall promptly furnish requested service to such residents; such service shall be provided to any residence passed by the Licensee's active distribution cable within not more than twenty (20) days following Licensee's receipt of any request for service.

Adopted Ordinance #1281 (1966); Amended Ordinance #2053 (1976);
Amended/Adopted Ordinance #2667 (1982); Amended Ordinance #3440 (1991);

42.0540 Service Standards and Requirements.

The Licensee shall render such services to subscribers as will meet technical and performance requirements of this chapter and the license. At a minimum, the Licensee shall provide the broad category of services, and the mix, quality, and level of programming represented to the County in the application and made a part of the license agreement.

(a) Minimum Interruptions. The Licensee shall render efficient service, making repairs promptly and interrupting service only for good cause and for the shortest possible time. Any scheduled interruptions, insofar as possible, shall be preceded by notice given to subscribers by character generator or other means at least twenty- four (24) hours in advance and shall occur during periods of minimum use of the system.

(b) Continuous Service. The Licensee shall provide and maintain continuous service to subscribers unless otherwise allowed. The Licensee may petition the License Review Board subject to approval by the Board of Supervisors to authorize the suspension or abandonment of service upon such reasonable terms and conditions as may be prescribed. Nonpayment for services and/or signal piracy shall constitute grounds for termination of service without approval by the Board of Supervisors.

(c) System Down Notification. The Licensee shall promptly notify the Director when the cable television system is down, due to technical difficulties which may affect services to subscribers. The Licensee shall advise the Director, by telephone and/or in

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writing, of all scheduled maintenance which will cause disruptions in service and of any planned outages for more than four (4) hours duration.

(d) Emergency Personnel. Licensee must retain and have available emergency personnel capable of performing emergency repairs and maintenance at all times (i.e., twenty-four [24] hours a day, seven [7] days a week).

(e) Identification Required. The Licensee, its employees, agents, contractors, and subcontractors shall be clearly identifiable to the public as representatives of the Licensee prior to and during any entry on public or private property. Identification shall include the name and telephone number of the Licensee on all trucks and other vehicles used by installation and maintenance personnel.

Adopted Ordinance #1281 (1966); Amended Ordinance #2053 (1976);
Amended/Adopted Ordinance #2667 (1982); Amended Ordinance #3440 (1991);

42.0541 Consumer Service Standards.

The Licensee shall provide the necessary facilities, equipment, and personnel to comply with the following consumer standards under normal conditions of operation:

(a) Local Business Office. The Licensee shall maintain a local business office within the County and provide the Director with the name, address, and telephone number of the person(s) who will act as the Licensee's agent(s) for general management of the system and to receive complaints regarding quality of service, equipment malfunctions and other matters. The Licensee shall advise the County of any change of said agent(s) within five (5) working days of such change. The local office shall be open and staffed to receive inquiries or complaints, either by telephone or personally, and process bill payments from subscribers during normal business hours, Monday through Friday, State and Federal holidays excepted.

(b) Telephone. A toll-free telephone number shall be available at all times to all subscribers located within the license area for the reporting of problems. Said toll-free number shall appear on all billing statements issued by the Licensee and the Licensee shall also maintain, at Licensee's expense, a listing of Licensee's toll-free telephone number in both the white and yellow pages of a telephone directory serving the license area. The answering of all business phones shall be in accordance with NCTA Customer Service Standards. The Licensee shall provide sufficient telephone lines, either adequately staffed to answer all incoming calls or with mechanical answering capabilities, providing, at a minimum, emergency referral information. During periods when an answering machine is used, the Licensee shall provide on-call personnel who shall contact the answering machine every two (2) hours at minimum to check on requests for service and complaints; the Licensee shall respond to all calls for service or complaints received during normal business hours within four (4) business hours of receipt, and shall promptly investigate and resolve all calls for service and complaints. The Licensee shall maintain adequate telephone lines to insure access by subscribers within the Licensee's area, and shall not at any time incapacitate the system so as to prevent the receipt of telephone calls to Licensee's office.

(c) Bills and Refunds. Bills will be clear, concise, and understandable. Refund checks will be issued promptly, but no later than the earlier of forty-five (45) days or the subscriber's next billing cycle following the resolution of the request, and return of the equipment supplied by the Licensee if service is terminated.

(d) Appointments. Upon request of a subscriber or potential subscriber, the Licensee shall provide a service call or installation appointment within a four (4) hour time period, morning or evening. Should Licensee be unable to keep the appointment,

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the subscriber shall be notified at the earliest possible opportunity, and shall be rescheduled on a priority basis.

(e) Repair Service. The Licensee shall render efficient service, make repairs promptly, and interrupt service only for good cause and for the shortest time possible. Scheduled interruptions shall be preceded by notice by character generator or other means, and shall occur during periods of minimum use of the system, preferably between the hours of midnight and 6:00 a.m. A written log, or equivalent stored in computer memory and capable of access and reproduction, shall be maintained for all service interruptions and requests for cable service. Licensee shall provide a repair staff of technicians capable of addressing the following problems within the following time frames:

(1) System Outage: Within two (2) hours, including weekends, of receiving subscriber calls;

(2) Isolated Outage: Within four (4) hours, including weekends, of receiving requests for service;

(3) Inferior Reception Quality: Within twenty-four (24) hours, including weekends, of receiving a request for service.

(f) Conduct Constituting a Response. The Licensee shall be deemed to have responded to a request for service under the provisions of this section when a technician arrives at the service location and begins work on the problem. In the case of a subscriber not being at home when the technician arrives, response shall be deemed to have taken place if the technician leaves a written notification of arrival. No charge shall be made to the subscriber for any service call unless the service request can be demonstrated to be both repeated and nonsystem related in origin, or to involve subscriber negligence.

(g) Installation Staff. The Licensee shall maintain an installation staff capable of installing service to any subscriber.

(h) Verification of Compliance. Upon reasonable notice, the Licensee shall demonstrate to the Director compliance with all or any of the standards set forth above. The Licensee shall provide data in sufficient detail to permit the County to verify the extent of compliance.

(i) Noncompliance with Standards. A repeated and verifiable pattern of noncompliance with the consumer protection standards listed above, after Licensee receives due notice and an opportunity to cure, may be deemed a breach of the license subject to any and all remedies as prescribed in Section 42.0556 herein and applicable law.

Adopted Ordinance #1281 (1966); Amended Ordinance #2053 (1976);
Amended/Adopted Ordinance #2667 (1982); Amended Ordinance #3440 (1991);
Amended Ordinance #3497 (1992);

42.0542 Notice of Construction or Reconstruction.

Prior to the commencement of construction or reconstruction of the system, the Licensee shall notify all residents and property owners, at the Licensee's expense, of the intended construction activity. All notices shall be in writing and shall be issued as follows:

(a) General Notice. At least forty-five (45) days prior to the intended construction, a general notice indicating the type of construction, projected construction schedule, and proposed construction area(s) shall be posted by first class mail, postage prepaid, to all affected property owners and/or residents.

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(b) Notice of Entry on Private Property. At least twenty-four (24) hours prior to entering private property or streets or public easements adjacent to or on such private property, a notice indicating the nature and location of the work to be performed shall be physically posted upon the affected property. The Licensee shall make a good faith effort to comply with the property owner/resident's preferences, if any, on location or placement of underground installations (excluding aerial cable lines utilizing existing poles and existing cable paths), consistent with sound engineering practices.

(c) Emergency Repairs. Notice requirements of subsections (a) and (b) above, are suspended for purposes of entry upon private property to perform repairs at the subscriber's request or in the event of system outage repairs or other emergencies in which insufficient time is available to provide notice to subscribers.

(d) Restoration of Property. After performance of work, Licensee shall restore private property as nearly as possible to its condition prior to construction. Any disturbance of landscaping, fencing, or other improvements on private property shall, at the sole expense of the Licensee, be promptly repaired and restored (including replacement of such items as shrubbery and fencing) to the reasonable satisfaction of the property owner.

Adopted Ordinance #1281 (1966); Amended Ordinance #2053 (1976);
Amended/Adopted Ordinance #2667 (1982); Amended Ordinance #3440 (1991);

42.0543 Notices to Subscribers.

As subscribers are connected or reconnected to the cable television system, and at least once annually thereafter, the Licensee shall provide each subscriber with written information concerning the following:

(a) Inquiries and Complaints. The Licensee shall provide written information concerning procedures for making inquiries or complaints, including the name, address, and local telephone number of the Licensee's employee(s) or agent(s) to whom such inquiries or complaints are to be addressed, and also furnish information concerning the department's responsibility for administration of the license, including the Director's name and the department's telephone number and address. The notice shall also indicate the Licensee's business hours, and procedures for responding to inquiries after normal business hours or during legal holidays that the Licensee's office is not open. The Licensee shall provide all subscribers and the Director written notice not less than thirty (30) days prior to any proposed change in these policies.

(b) Billing and Refund Procedures. A listing of all services, packages, and rates available at the time, including billing options and dispute procedures, refund procedures, and Licensee policies with respect to disconnection and reconnection services and charges shall be provided each subscriber. If the Licensee has elected to utilize line item charges for license fees, copyright, and other fees as permitted under Section 634 of Cable Act, any such listings, whether written or oral, shall disclose to the subscriber the total charges associated with receiving cable services. Any designation of license fees as a separate line item on the statement shall use the term "license fee." Prior to the issuance of any such notices, a copy shall be submitted to the Director for review and approval.

(c) Lock Boxes. Licensee shall provide notice of the availability of any devices required by federal, state, or local law such as, but not limited to, parental lock box device and/or switching device ("A/B" switch), and any fees or charges associated with receiving such devices.

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(d) **Subscriber Privacy Rights.** A separate written notice containing the information regarding protection of subscriber privacy rights as specified in Section 631 of the Cable Act.

(e) **Disconnect Notice.** at least ten (10) days in advance of any discontinuance of service to subscriber for nonpayment, the Licensee shall provide the subscriber with a separate written notice. The notice shall contain the date, time and place at which payment must be made in order to prevent disconnection of service. In the event Licensee has improperly or inadvertently disconnected cable services to a subscriber, the Licensee shall provide for restoration without charge to the subscriber within not more than one (1) business day of the discovery of the disconnection.

(f) **Forwarding of Notices.** The notices required above (other than notices required under Section 42.0542) may be included in the mailing of the subscriber's billing statement.

(g) **Copies to County.** Sample copies of all notices provided to subscribers shall be filed annually with the Department.

Adopted Ordinance #1281 (1966); Amended Ordinance #2053 (1976);
Amended/Adopted Ordinance #2667 (1982); Amended Ordinance #2754 (1983);
Amended Ordinance #3440 (1991);

42.0544 Termination of Subscriber Services.

Upon termination of any subscriber, the Licensee shall promptly remove all of its facilities and equipment, excepting drop cable and internal wiring, from the premises of such subscriber upon subscriber's request, except as provided in subsection (b), below.

(a) **Charges upon failure to recover equipment,** upon termination of services, should the Licensee not promptly collect its equipment from the premises of the subscriber, the subscriber shall not be charged for continued services, nor for failure to return any equipment.

(b) **Equipment Returns.** Should the Licensee require the subscriber to return the equipment, the Licensee shall establish convenient hours including convenient evening and weekend hours, for return of the equipment, and the subscriber shall have a reasonable length of time in which to return the equipment. The subscriber shall be advised of the date by which the equipment must be returned before a charge may be imposed for failure to return equipment.

Adopted Ordinance #1281 (1966); Amended Ordinance #2053 (1976);
Amended/Adopted Ordinance #2667 (1982); Amended Ordinance #2908 (1984);
Amended Ordinance #3440 (1991);

42.0545 Subscriber Complaints to the Licensee.

The Licensee shall establish written procedures for receiving, acting upon, and resolving subscriber complaints. Such written procedures shall prescribe the manner in which a subscriber may submit a complaint either orally or in writing to the Licensee. A copy of these procedures shall be provided to all subscribers upon application for service as required pursuant to Section 42.0543. The procedures shall also inform the subscriber of the subscriber's right to file a complaint with the department in the event the subscriber is dissatisfied with the Licensee's action. No proceedings to resolve subscriber complaints shall be undertaken by the Department until the Licensee's complaint resolution procedures have been exhausted.

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Adopted Ordinance #1281 (1966); Amended Ordinance #2053 (1976);
Amended/Adopted Ordinance #2667 (1982); Amended Ordinance #3440 (1991);

42.0546 Subscriber Complaint Procedure Requirements.

The Licensee's subscriber complaint procedures shall include, but not be limited to the following:

(a) Response to Subscriber Complaints. Except as provided in Section 42.0541(d), responses to subscriber complaints shall be initiated within one (1) business day of receipt. Resolution of the complaint, unless for good cause shown, shall be accomplished by the Licensee not later than five (5) business days after receipt of the complaint. If a subscriber has notified the Licensee in writing that a bill or any portion thereof is in dispute, the Licensee shall not terminate service pending resolution of the dispute, nor shall the account be turned over or reported to a collection agency, provided that the remaining balance of the bill is current. A bill shall not be considered in dispute solely by reason of nonpayment by the subscriber.

(b) Subscriber Complaint Record. The Licensee shall maintain a written and/or computerized subscriber complaint record containing the following information:

- (1) Date and time of subscriber complaint;
- (2) Identification of the complainant by name, address, and telephone number;
- (3) Description of the nature of the complaint; and
- (4) A record of when and what action was taken by the Licensee to resolve the complaint.

The complaint record shall be kept at the Licensee's local office for a period of three (3) years after receipt of any complaint. A copy of said subscriber complaint record shall be made available in accordance with applicable confidentiality laws by the Licensee to the Director upon his request.

(c) Outage Log. The Licensee shall maintain an outage log showing the date, approximate time and duration, type, and probable cause of all head-end, trunk, or distribution line service failures occurring within the calendar year. Each log shall be kept for a minimum period of three (3) years after the close of that calendar year. The log shall also include information relating to routine testing or scheduled maintenance outages. A copy of such outage log shall be provided by the Licensee to the Director upon request.

(d) Special Tests and Reports. When substantiated complaints result in an unresolved controversy involving significant noncompliance with license standards, or when circumstances exist which, in the judgment of the Director, cast doubt upon the reliability or quality of cable service, the Director may require the Licensee, at the Licensee's cost, to test, analyze, and provide a written report on the performance of the system as provided in Section 42.0538. Said report shall be delivered to the Director, no later than thirty (30) days after the Licensee is notified in writing of the required report. The Director may require at Licensee's expense that these tests and analyses be supervised by an independent professional engineer acceptable to the County. Test reports shall be forwarded to the Director with interpretation of the test results and recommending actions to be taken.

(e) Subscriber Terminal Tests. The Licensee shall, upon reasonable request or complaint by a subscriber, perform such tests as necessary at the subscriber's terminal to establish whether a signal of requisite quality is being delivered to the subscriber's premises. The results of such test(s) shall be communicated to the subscriber as soon

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as the test is completed and evaluated, and in no event later than ten (10) days after the test has been concluded.

Adopted Ordinance #1281 (1966); Amended Ordinance #2053 (1976);
Amended/Adopted Ordinance #2667 (1982); Amended Ordinance #3440 (1991);

42.0547 Subscriber Complaints to the County.

A subscriber who is dissatisfied with the Licensee's proposed resolution of a complaint, or who has not received a response from the Licensee within the five (5) day period as required under Section 42.0546(a), shall be entitled to have the complaint reviewed by the County. The subscriber shall initiate the review process by filing a written complaint, together with the Licensee's written decision, if any, with the Department, and the Department shall notify the Licensee of such filing.

(a) Review by Division of Consumer Affairs. Upon the Department's receipt of the subscriber's complaint, the Department shall, within five (5) days, forward the complaint to the Division of Consumer Affairs, which shall review the subscriber's complaint and Licensee's decision, and shall attempt to mediate the dispute. In the event resolution of the dispute is not possible, the Division shall refer the matter back to the Department for hearing by the License Review Board, which shall hear the dispute within not more than ninety (90) days following referral of the dispute from the Division.

(b) License Review Board Findings Final. Decisions of the License Review Board with respect to consumer complaints shall be final.

Adopted Ordinance #1281 (1966); Amended Ordinance #2053 (1976);
Amended/Adopted Ordinance #2667 (1982); Amended Ordinance #3440 (1991);

42.0548 Rights Reserved to the County.

The rights reserved to the County set forth below are in addition to all other rights of the County, whether reserved herein or otherwise authorized by law, and no action, proceeding, or exercise of a right shall affect any other rights which may be held by the County. Licensee, by acceptance of the license, agrees to be bound thereby and to comply with any action or requirement of the County in its exercise of any such right or power.

(a) Delegation of Authority. The County may exercise or delegate its regulatory power to a subordinate body of its officers, employees, agencies, committees, or departments to insure the proper implementation of this chapter.

(b) Governing Rules and Regulations. The County shall have the power and right at all times for the duration of the license to require the Licensee to conform to the rules and regulations governing the operation of the cable television systems now or hereafter adopted by the Board of Supervisors.

(c) Establishment of New Requirements. The County may establish additional requirements for new licenses or license renewals, and may modify requirements from time to time to reflect changing conditions and the industry standards.

(d) Waiver of Established Requirements. The County shall have the right to waive any provision of the license, except those required by Federal or State Regulation, if the Board of Supervisors, in their discretion, determines that it is in the public interest to do so.

(e) County Inspections. The County shall have the right to inspect all cable television system construction or installation, and to make such tests as it shall find

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necessary to ensure compliance with the terms of the license and other applicable provisions of law.

(f) Intervention by County. The County shall have the right of intervention in any suit or proceeding involving a cable system or license to which a County Licensee is a party.

(g) Street Improvements. The County reserves the right to improve any street, or other public place, or other portions thereof, over and within which the license is granted, including the widening, change of grade, change of alignment, construction or reconstruction of such street, or any portion thereof, and the County further reserves the right to construct, or reconstruct, install, repair and maintain any such street, or other public places, or any portions thereof.

Adopted Ordinance #1281 (1966); Amended Ordinance #2053 (1976);
Amended/Adopted Ordinance #2667 (1982); Amended Ordinance #3440 (1991);

42.0549 Rights of Subscribers.

(a) Discrimination by Licensee. The Licensee shall not deny service, deny access, or otherwise discriminate against subscribers, PEG channel users, or general citizens on the basis of income, race, color, religion, national origin, age or sex. The Licensee shall comply at all times with all other applicable federal, state, and local laws and regulations, and all executive and administrative orders relating to nondiscrimination, which are hereby incorporated in and made a part of this chapter by reference.

(b) Rights of Tenants. Tenants shall not be discriminated against in the ability to subscribe to cable services. Licensee shall be required to provide tenants in individual units of multiple housing facilities with all services offered to other dwelling units within the license area, so long as the owner of the multiple housing facility consents in writing, if requested by the Licensee, to the following:

(1) The Licensee's providing service to units of the facility.

(2) Reasonable conditions and times for installation, inspection, and maintenance of the system on the facility premises.

(3) Reasonable conditions promulgated by the Licensee to protect Licensee's equipment and to encourage widespread use of the system.

Adopted Ordinance #1281 (1966); Amended Ordinance #2053 (1976);
Amended/Adopted Ordinance #2667 (1982); Amended Ordinance #3440 (1991);

42.0550 Equal Employment Opportunities.

The Licensee shall strictly adhere to equal employment opportunity requirements of federal, state, and local laws and regulations in effect on the date of the license grant, and as amended from time to time.

Adopted Ordinance #1281 (1966); Amended Ordinance #2053 (1976);
Amended/Adopted Ordinance #2667 (1982); Amended Ordinance #3440 (1991);

42.0551 Continuity of Service.

It shall be the right of all subscribers to continue receiving service insofar as *their* financial and other obligations to the Licensor are honored. In the event that the Licensee elects to overbuild, rebuild, modify, or sell the system, or the County gives notice of intent to terminate or fails to renew the license, the Licensee shall act so as to ensure that all subscribers receive continuous, uninterrupted service.

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(a) Change of Licensee. In the event of a change of Licensee, or in the event a new operator acquires the system, the original Licensee shall cooperate with the County and the new owner or operator in maintaining continuity of service to all subscribers.

(b) County Operation. In the event the Licensee fails to operate the system for seven (7) consecutive days without prior approval of the Director, or without just cause, the County may, at its option, and in addition to any other rights provided for in this chapter, seek a court-appointed receiver to operate and to collect all revenues from the *system* until such time as the Licensee can restore service under conditions acceptable to the County, or a replacement operator is selected. The Licensee shall reimburse the County for all reasonable costs or damages that are the result of the Licensee's failure to perform.

Adopted Ordinance #1281 (1966); Amended Ordinance #2053 (1976);
Amended/Adopted Ordinance #2667 (1982); Amended Ordinance #3440 (1991);

42.0552 Retention of Licensee's Records.

(a) Retention Periods. The Licensee shall establish, keep, and maintain books, accounts, papers, maps, and other records which relate to the operations, transactions, property, or financial condition of the Licensee with respect to its activities under the license issued pursuant to this chapter for a period in accordance with the following schedule:

(1) Fifteen (15) years: License, amendments to the license, license applications and related materials, construction maps, documents filed or presented to the License Review Board or Board of Supervisors, and records relating to bonds or other security;

(2) Seven (7) years: Financial information, including, but not limited to, annual reports of the Licensee, License Fee *Reports*, *records* of gross *receipts*, balance sheets, receipts, income, and disbursements; and

(3) Three (3) years: All other records required under this chapter unless otherwise specified.

(b) Inspection of Records. The County or its authorized representative, upon reasonable notice, shall have the right to inspect at any time during normal business hours the books, records, maps, plans, service complaint logs, performance test results, and any other records of the Licensee which relate to the operations of the Licensee and which are maintained at the local office required by this chapter. If any such books or records are not kept in the local office, or if on reasonable request, are not made available to County inspection within the County, and if the County shall determine that an examination of such records is necessary or appropriate to the performance of the County's responsibilities hereunder, then all reasonable travel and subsistence expense necessarily incurred in making such an examination by the County shall be paid by the Licensee.

(c) Confidentiality. County shall maintain the confidentiality of any trade secrets or other proprietary information of Licensee in the possession of the County, and further, records shall be exempt from public inspection pursuant to this section to the extent such records are made except from public disclosure by state or federal statute and to the extent such records are protected by state or federal statute against discovery in civil litigation.

Adopted Ordinance #1281 (1966); Amended Ordinance #2053 (1976);
Amended/Adopted Ordinance #2667 (1982); Amended Ordinance #3440 (1991);

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42.0553 Licensee Reporting Requirements.

The Licensee shall be responsible for the preparation and timely submission to the Director of the following designated reports:

(a) Annual Reports. Within one hundred and twenty (120) days after the close of the Licensee's fiscal year, the Licensee shall submit a written annual report in such form as established by the Director, including, but not limited to, the following:

(1) A summary of the previous year's (or in the case of the initial report year, the initial year) activities and development of the cable system, including services begun or discontinued during the reporting year, and the number of subscribers for each class of service.

(2) A revenue statement, audited by an independent certified public account, or certified by an officer of the Licensee.

(3) A statement of projected construction, if any, for the next two (2) years.

(4) A list of the Licensee's officers, members of its board of directors, and other principals.

(5) A list of stockholders or other equity investors holding five percent (5%) or more of the voting interest of the Licensee and/or its parent (unless its parent is a public corporation whose annual reports are publicly available), affiliated corporations, and other entities, if any.

(b) Periodic Reports. The Licensee shall furnish to the Director progress reports and maps indicating in detail the location of existing construction of the system. Such periodic reports and maps shall be furnished at six (6) months intervals beginning with the effective date of the license.

(c) License Payment Report. The Licensee, during the entire term of the license, within sixty (60) days after the expiration of each License Payment Period, shall file with the Treasurer/Tax Collector and the Department a License Payment Report, verified by oath of the Licensee or by the oath of a duly authorized representative of the Licensee, setting forth in detail the computation of the amount of Licensee payment due for the immediately preceding payment period. The report shall be completed on a form provided by the Director.

(d) Public Reports. If public reports are issued, a copy of each of the Licensee's annual and other periodic public financial reports and those of its parent, subsidiary and affiliated corporations and other entities, if any, shall be submitted to the County within thirty (30) days after receipt of the County's request.

(e) Federal and State Reports. The licensee may be required to submit to the County copies of pleadings, applications, notifications, communications, and documents of any kind, submitted by the licensee, and copies of all decisions, correspondence, and actions by, any federal, state, or local courts, regulatory agencies, or other government entities relating to its cable television operations within the license area. The Licensee shall submit such documentation to the County not later than thirty (30) days after receipt of a County request to do so.

(f) Cost of Reports. All reports and records according to this or any other section of this chapter shall be furnished at the sole expense of the Licensee.

Adopted Ordinance #1281 (1966); Amended Ordinance #2053 (1976);
Amended/Adopted Ordinance #2667 (1982); Amended Ordinance #3440 (1991);

42.0554 Severability.

If any provision of this chapter, the license, or application of the license to any person or circumstance is held invalid by a court of competent jurisdiction or is not in

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compliance with any requirement of the Public Utilities Commission of the State of California, FCC, or any other federal or state body or agency having jurisdiction over Licensee's license activities, the remainder of this chapter or the license, or application of the license to persons or circumstances, other than those to which it is held invalid or not in such compliance, shall not be affected thereby.

Adopted Ordinance #1281 (1966); Amended Ordinance #2053 (1976);
Amended/Adopted Ordinance #2667 (1982); Amended Ordinance #3440 (1991);

42.0555 Force Majeure.

In the event Licensee's performance of any of the terms, conditions, obligations, or requirements of its license is prevented or impaired due to acts of God or civil emergencies, which are beyond Licensee's control and not reasonably foreseeable, such inability to perform shall be deemed excusable and no penalties or sanctions shall be imposed as a result thereof, provided the Licensee has notified the Department in writing within thirty (30) days of discovery of the occurrence of such an event. In the event Licensee must suspend service as the result of such force majeure, Licensee shall make every reasonable effort to effect repairs, and restore service to its subscribers as soon as possible thereafter. In the event Licensee cannot restore service to its subscribers within ninety (90) days following the occurrence of such an event, the Director may initiate proceedings under Sections 42.0523 or 42.0556 to modify or terminate Licensee's license.

Adopted Ordinance #1281 (1966); Amended Ordinance #2053 (1976);
Amended/Adopted Ordinance #2667 (1982); Amended Ordinance #3440 (1991);

42.0556 Civil Penalties, Default and Revocation Proceedings.

If Licensee fails to perform any obligation under the License, or under this chapter, or fails to do so in a timely manner, the Department may, at its sole option, and at its sole discretion declare a default and seek the following:

(a) Notice of Default. Upon Licensee's breach of the terms of its license or violation of this chapter, the Department shall mail to the Licensee's last known business address by First Class Mail, postage prepaid, a Notice of Default. Said notice shall describe the nature of the Licensee's default and specify such remedial action as may be necessary for the Licensee to cure said default. Licensee shall have ninety (90) days from the date of the Notice of Default's mailing in which to cure the default. In the event Licensee has failed to cure the default, the Department may submit the matter to the License Review Board for further proceedings.

(b) License Review Board Hearings. In the event that a Notice of Default is mailed to Licensee as set forth in subsection (a) above, the Department may, no earlier than sixty (60) days following its mailing of a Notice of Default, file a written accusation with the License Review Board with a copy to the Licensee, requesting a hearing and setting forth the grounds for such proceedings. The Licensee may, within thirty (30) days following the Department's mailing of the accusation, file with the License Review Board a written response to said accusation admitting and/or denying the allegations therein and setting forth any affirmative defenses Licensee may have. Not later than sixty (60) days after any such accusation has been received by it, a public hearing pursuant to Sections 42.0513 and 42.0514 shall be held on the accusation by the License Review Board. The License Review Board shall, within thirty (30) days following the public hearing, either dismiss the accusation, assess monetary sanctions, or recommend

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revocation of the license to the Board of Supervisors, and shall notify the Licensee in writing of its decision by First Class Mail, postage prepaid. Determinations of the License Review Board may be appealed to the Board of Supervisors within thirty (30) days of the License Review Board's decision.

(c) Monetary Sanctions. For any violation of the terms of this chapter or the terms of the license, and as an alternative to revocation of the license, the License Review Board may assess against the Licensee monetary sanctions in an amount not to exceed thirty percent (30%) of the license fee paid for the preceding year. Assessment of sanctions shall not constitute a waiver by the County of any other right or remedy it may have under the license or under applicable law, including without limitation, its right to recover from the Licensee such additional damages, costs and expenses, under this chapter including actual attorney fees, that may have been suffered or incurred by the County by reason of or arising out of such breach of the license or this chapter.

(d) License Revocation/Suspension. The County may revoke or suspend any license for cause. For the purposes of this section, any breach of the license or this chapter shall constitute cause. In the event the License Review Board shall recommend revocation or suspension, the Board of Supervisors shall conduct a public hearing within forty-five (45) days following its receipt of the License Review Board's recommendations, and shall within thirty (30) days of the public hearing make its determination either to: (1) Dismiss the revocation proceedings; (2) Suspend the license subject to Licensee's performance of such condition(s) consistent with this chapter as the Board of Supervisors may impose; or (3) Revoke the license.

(e) Effect of Revocation. Upon revocation and during suspension of a license by the Board of Supervisors, the Licensee shall immediately cease all operations under the license, and the license shall be considered null and void. Any continued operations requiring a license under this chapter, shall be considered a violation of the County Code and subject the Licensee to such criminal and civil penalties, including injunctive relief, as may be appropriate.

(f) No Limitation of County's Rights. Any or all of the above enumerated measures against Licensee shall be in addition to any and all other legal or equitable remedies the County has under the License or under applicable law.

Adopted Ordinance #1281 (1966); Amended Ordinance #2053 (1976);
Amended/Adopted Ordinance #2667 (1982); Amended Ordinance #2717 (1982);
Amended Ordinance #3440 (1991);

AIRPORTS AND HELISTOPS

Chapter 6

AIRPORTS AND HELISTOPS

Sections:

- 42.061 Landings and Takeoffs - Exceptions.
- 42.062 Penalty for Violations.
- 42.063 injunctive Relief.
- 42.064 Exceptions.
- 42.065 Nonliability of the County.
- 42.066 Severability.

42.061 Landings and Takeoffs - Exceptions.

It shall be unlawful and an offense for any person to take off in or land any aircraft within the unincorporated area of the County at any point except airports and heliports, provided, that the prohibition of this section shall not apply to mechanical failure or flight operations emergency. The term "emergency" as used herein shall be construed to include Sheriff, Rescue and Ambulance missions and other flights conducted in the public interest, and urgency flight operations of public utility companies occasionally utilizing their own properties or, with prior permission, land owned by others, in accordance with Federal and State regulations.

Amended Ordinance #2228 (1978);

42.062 Penalty for Violations.

Any person, association, firm or corporation who shall violate any of the provisions of this chapter or rules and regulations promulgated hereunder shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine not to exceed five hundred dollars (\$500). Each day such violation shall be permitted to exist shall constitute a separate offense.

Amended Ordinance #2228 (1978);

42.063 injunctive Relief.

Any person, association, firm or corporation violating any of the provisions of this chapter may be enjoined by a suit filed by the County in a Court of competent jurisdiction, and this remedy shall be in addition to any other penalty provision.

Amended Ordinance #2228 (1978);

42.064 Exceptions.

None of the provisions of this chapter shall be construed to apply to facilities owned or activities conducted by federal, state or municipal governments or agencies thereof.

Amended Ordinance #2228 (1978);

42.065 Nonliability of the County.

AIRPORTS AND HELISTOPS

The County in no event shall be liable for any personal injuries or property damages occasioned in any way in connection with the construction, establishment, maintenance or operation of any airport or heliport.

Amended Ordinance #2228 (1978);

42.066 Severability.

If any provisions of this chapter or the application thereof to any person or circumstances shall be held invalid, such invalidity shall not affect the provisions or application of this chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are declared to be severable.

Amended Ordinance #2228 (1978);

ADMINISTRATION

DIVISION 3 GENERAL

Chapters:

- 1. Administration.**
- 2. Amphitheater Business License Tax.**

Chapter 1 ADMINISTRATION

Sections:

- 43.011** Penalty.
- 43.012** Enforcement.
- 43.013** Suit for Recovery of License Fee.

43.011 Penalty.

Where not otherwise provided any person violating any provision of Title 4 of this Code shall be guilty of a misdemeanor and subject to a fine of not more than five hundred dollars (\$500) or imprisonment in the County Jail for not more than six (6) months, or both such fine and imprisonment.

Adopted Ordinance #1007 (1962);

43.012 Enforcement.

If no other officer is specified by the terms of the chapter concerned, a chapter of this Code shall be enforced by the Sheriff, District Attorney, and County Counsel. The Sheriff shall issue the license or permit, and the Tax Collector shall receive the fee and all charges, penalties, and deposits, except as otherwise provided by law.

Adopted Ordinance #1007 (1962);

43.013 Suit for Recovery of License Fee.

It shall be the duty of the Tax Collector to cause suit to be brought in the name of the County of San Bernardino as plaintiff for the recovery of any license fee herein imposed against any person required by Title 4 of this Code to first procure a license before engaging in any business, as herein defined, who carries on or attempts to carry on such business without such license.

Adopted Ordinance #1007 (1962);

AMPHITHEATER BUSINESS LICENSE TAX

Chapter 2 AMPHITHEATER BUSINESS LICENSE TAX

Sections:

- 43.021 License Required.
- 43.022 Tax Rate.
- 43.023 License Revocation.

43.021 License Required.

It shall be unlawful for any person to operate in the unincorporated areas of the County of San Bernardino any permanent open air amphitheater with permanent seating for a capacity of not less than one-thousand (1,000) individuals, without first having procured a license to do so from the Treasurer/Tax Collector of the County of San Bernardino and thereafter having paid the required Business License Tax when due.

Adopted Ordinance #3535 (1993);

43.022 Tax Rate.

For each business requiring a license under this Chapter, the licensee shall pay to the County of San Bernardino the sum of 7.75% of the cost of each admission paid by each person attending any event being conducted by a licensee under this Chapter. The Business License Tax shall be due and payable semi-annually in accordance *with* the license.

Adopted Ordinance #3535 (1993);

43.023 License Revocation.

Any license issued pursuant to this Chapter may be suspended or revoked by the Treasurer/Tax Collector when it shall appear that the Business License Tax has not been paid when due, or that the business of the person to *whom* such license was granted has been conducted in violation of any statute of the State or Federal Government, or in violation of this Code, or is being used for a purpose different from that for which the license was issued.

Adopted Ordinance #3535 (1993);

VALIDITY OF TITLE 4

Chapter 3 **DIVISION 4. VALIDITY OF TITLE 4.**

Section: **44.0301**

This title and the various parts, divisions, chapters, sections and clauses thereof are hereby declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid, the remainder of this title shall not be affected thereby. The County Board of Supervisors hereby declares that it would have passed this title and each part thereof, regardless of the fact that one or more parts thereof be declared unconstitutional or invalid.

DEFINITIONS

DIVISION 5. PERMIT REGULATIONS FOR EXPLOSIVES.

Chapters:

1. Definitions
2. Prohibition
3. Permit
4. General Provisions

Chapter 1 DEFINITIONS

45.011 For the purposes of this Division the following terms shall bear the connotations set forth below:

(a) "Authorized representative" shall mean a representative or agent or an association or organization, who will act for such entity in being in charge of, and responsible for, explosives. Such an authorized representative will share liability jointly with such entity for all actions or instances proximately related to the explosives.

(b) "Employee" shall mean an employee of a corporation who will act for the corporation in being in charge of, and responsible for, explosives. Such an employee will share liability jointly with such a corporation for all actions or instances proximately related to the explosives.

(c) "Explosive" shall mean any substance, or combination of substances the primary or common purpose of which is detonation or rapid combustion and which is capable of a relatively instantaneous or rapid release of gas and heat, or any substance, the primary purpose of which, when combined with any other substance, is to form a substance capable of a relatively instantaneous or rapid release of gas and heat. The term "explosives" shall include, but shall not necessarily be limited to, any of the following:

(1) Dynamite, nitroglycerin, picric acid, lead azide, fulminate of mercury, black powder, smokeless powder, propellant *explosives*, *detonating* primers, blasting caps, and or commercial boosters;

(2) Substances determined to be Class "A" and Class "B" explosives as classified by the United States Department of Transportation;

(3) Nitro carbo nitrate substances (blasting agent) as classified by the United States Department of Transportation;

(4) Any material designated as an explosive by the State Fire Marshal. Such designation shall be made pursuant to the classification standards established by the United States Department of Transportation. The State Fire Marshal shall adopt regulations in accordance with the provisions of Chapter 4.5 (commencing with Section 11371), Part I, Division 3, Title 2 of the Government Code of the State of California to establish procedures for the classification and designation of explosive materials or explosive devices that are not under the jurisdiction of the United States Department of Transportation;

(5) Certain Class "C" explosives as designated by the United States Department of Transportation when listed in regulations adopted by the State Fire Marshal.

For the purposes of this part, the term "explosives" shall not include any destructive device, as defined in Section 12301 of the Penal Code, nor shall it include ammunition or small arms primers manufactured for use in shotguns, rifles, or pistols.

DEFINITIONS

(d) "Issuing authority" shall mean the Sheriff of San Bernardino County, his deputies or agents;

(e) "Magazine" shall mean any building, structure, or container, other than an explosives manufacturing building, authorized for the storage of explosives;

(f) "Permit" shall mean a permit issued pursuant to the provisions of this Division.

(g) "Person" shall mean any individual, organization, firm, corporation or association.

Amended Ordinance #1604 (1970);

PERMIT

Chapter 2 PROHIBITION

45.021 No person shall do any one of the following without first having applied for and received a permit in accordance with the provisions of this Division.

- (a) Manufacture explosives;
- (b) Sell, give, deliver, or otherwise dispose of explosives;
- (c) Receive, store, or possess explosives;
- (d) Transport explosives;
- (e) Use explosives;
- (f) Operate a terminal for handling explosives;
- (g) Park or leave standing any vehicle carrying explosives, except when parked or left standing in or at a safe stopping place designated as such by the State Fire Marshal under the provisions of Division 14 (commencing with Section 31600) of the Vehicle Code.

Adopted Ordinance #1604 (1970);

45.022 No person shall abandon or otherwise dispose of any explosive in any manner which might, as the result of such abandonment or disposal, create any danger or threat of danger to life or property. Any person in possession or control of explosives required in the performance of his duties shall, when the need for such explosives no longer exists, either return the explosives to the source from which the explosives were obtained, or to the issuing authority for disposal or shall destroy the explosives in a safe manner so as not to make them available to persons who might obtain them and use them in a manner prejudicial to the safety of life and property. Magazines or temporary magazines used for storage purposes in any area where blasting is required shall, when the need for such storage no longer exists and the explosives have been removed or disposed of as above required, be removed or demolished, or signs indicating the presence of explosives in such magazines or on the premises on which such magazines are located, shall be removed or effectively obliterated, and the issuing authority who issued the storage permit shall be immediately notified of the action taken.

Adopted Ordinance #1604 (1970);

45.023 No explosives permittee shall lend his permit or allow it to be used by another person.

Adopted Ordinance #1604 (1970);

45.024 This Division does not apply to the transportation and use of explosives (by representatives of the California Highway Patrol, the State Bureau of Criminal Identification and Investigation, local police departments, Sheriff's department, and fire departments acting in their official capacity.

Adopted Ordinance #1604 (1970);

PERMIT

45.025 This Division does not apply to any possession or use of twenty (20) pounds or less of smokeless powder, or one (1) pound or less of black sporting powder, provided that:

(a) Smokeless powder is intended only for handloading of small arms ammunition of .75 caliber or less;

(b) Black sporting powder is intended for loading of small arms or small arms ammunition of .75 caliber or less;

(c) All such powder is for private use and not for resale, and in the case of black sporting powder there shall be no gift, delivery, or other disposition to another person.

(d) The storage, use, and handling of such smokeless and black powder conforms to rules, regulations, or ordinances of authorities having jurisdiction for fire prevention and suppression in the area of such storage, use, and handling of such explosives.

Adopted Ordinance #1604 (1970);

PERMIT

Chapter 3 PERMIT

45.031 Application for a permit shall be in writing; shall be presented to the issuing authority; and shall be on a form supplied by the issuing authority.

Amended Ordinance #1604 (1970);

45.032 A permit application shall, when submitted to the issuing authority, prior to the contemplated rise of the explosives, contain the following:

- (a) The name and address of the applicant;
- (b) The name and address of the employee or authorized representatives designated by the applicant as being responsible for the use, handling, storage, possession or transportation of explosives for the applicant;
- (c) The place where, and the purpose for which, the explosives are intended to be used, handled, stored or possessed;
- (d) The type and amount of explosives for which application is made; (e) The signature of the applicant;
- (f) The number of times purchases may be made and the frequency of such purchases;
- (g) The routes, highways, and stopping places intended to be utilized in transporting the explosives;
- (h) Whether the applicant, or its employee or authorized representative designated as being responsible for the use, etc., of the explosives:
 - (1) Is an alien;
 - (2) Has been convicted of a felony;
 - (3) Has been convicted of a violation of California Health and Safety Code Section 11721;
 - (4) Is a registered sex offender pursuant to the provisions of California Penal Code Section 290;
 - (5) Has been adjudged at any time incompetent and/or insane.
- (i) A recent photograph of the applicant, or the employee, or authorized representative, known as a "mug shot";
- (j) A set of fingerprints of the applicant, or the employee or authorized representative.

A statement of the applicant's or the employee's or authorized representative's previous experience with explosives shall be submitted with the application.

Amended Ordinance #1604 (1970);

45.033 The issuing authority shall examine the application, and if deemed necessary, require elaboration from the applicant on any subject matter disclosed in the application, when such elaboration relates to the competency of any person to be involved with the explosives. The issuing authority may also visit and inspect the applicant's premises, facilities, and/or vehicles which will be employed with regard to any transportation, storage or use of the explosives.

Amended Ordinance #1604 (1970);

PERMIT

45.034 After the issuing authority has weighed and studied all available information pertaining to the applicant's proposed use or the explosives, the issuing authority shall grant the permit, or if he finds that any person involved, lacks the necessary knowledge or planning with regard to ability to perform the contemplated uses with explosives, or that the property involved lacks the necessary characteristics from the standpoint of location of facilities, all with regard to safety of the individuals involved, public safety and security of private property, the issuing authority may deny the application,

No application for such a permit shall be approved by the issuing authority unless the storage facility is in strict compliance with the regulations adopted by the State Fire Marshal pursuant to Section 12081 of the California Health and Safety Code.

If the application is for a permit to transport one thousand (1,000) pounds or less of explosives on a public road or highway, the application shall include the following information:

(a) A description of the vehicle or vehicles which will be employed in the transportation;

(b) The route to be taken for such transportation and any stopping places. The description of such a vehicle shall include license number, make, model, weight, and a maintenance record of such a vehicle. The route proposed shall be subject to approval of the issuing authority.

Amended Ordinance #1604 (1970);

45.035 Before a permit shall be issued, the applicant shall post a bond in the amount of twenty-five thousand dollars (\$25,000) with the issuing authority to insure compliance with this Division, or submit evidence of a public liability insurance policy providing coverage for the activities proposed under the permit, for a minimum of the above sum, when deemed necessary by the issuing authority for public safety.

Amended Ordinance #1604 (1970);

45.036 A permit shall not be issued until after the payment of a fee of ten dollars (\$10), unless the quantity of explosives is one hundred (100) pounds or less, in which case the fee shall be two dollars (\$2).

Amended Ordinance #1604 (1970);

45.037 Except in a case in which the issuing authority determines that the explosives are necessary because of an emergency involving a danger to persons or property, no permit shall be issued until one (1) week has elapsed after application is made. If no affirmative action is taken on the application within fourteen (14) days after application is made, the issuing authority shall explain the cause for such delay to the applicant.

Amended Ordinance #1604 (1970);

45.038 A permit shall remain valid only until such time as the act or acts authorized by the permit are performed, but in no event shall the permit remain valid for a period longer than one (1) year from the date of issuance of the permit.

Amended Ordinance #1604 (1970);

PERMIT

45.039 A permit may be suspended or revoked, after reasonable notice by the issuing authority, if the person to whom the permit was issued sells, uses, stores, or handles the explosives in a manner which is unlawful or which creates an unreasonable hazard to life and property, or in violation of the *conditions* of the permit as indicated on the application.

Amended Ordinance #1604 (1970);

GENERAL PROVISIONS

Chapter 4 GENERAL PROVISIONS

45.041 Any decision or action of the issuing authority made pursuant to Division 5 of this Code may be appealed in writing by letter addressed to the Clerk of the Board of Supervisors, within ten (10) days of the decision or action from which such appeal is taken. Within ten (10) days of such appeal the Board of Supervisors shall hear and determine such appeal; the matter may be continued for reasonable cause. The burden shall be on the permittee or person, to prove that the decision or action in question was arbitrary or capricious or an abuse of discretion. The hearing before the Board of Supervisors shall be noticed in writing to the permittee and the issuing authority five (5) days in advance of such hearing. That Board may reverse the decision or action of the issuing authority or may affirm it.

Adopted Ordinance #1604 (1970);

45.042 The provisions of Division 5 of this Code are intended to apply in addition to, and to be supplementary to, the provisions of California Health and Safety Code, Division X1, Part I (commencing with Section 12000), California Vehicle Code, Division XIV (commencing with Section 31600), and the California Administrative Code, Title 19, Subchapter 10 (commencing with Section 1500).

The Board of Supervisors finds that the provisions of Division 5 of this Code are not in conflict with the aforementioned State law, and each of the provisions of the laws mentioned in this section shall be operative in such a manner that is consistent and reasonable with each and every other provision of law hereof.

Adopted Ordinance #1604 (1970);

DEFINITIONS

DIVISION 6. SOLID WASTE HANDLING FRANCHISES

Chapters:

1. Purposes and Required Authorizations
3. Franchise
4. Compensation
5. Uniform Handling Service
6. Definitions
2. Minimum Operating Requirements and programs
7. Hazardous Waste Screening
8. Reporting Requirements, Financial Information and Audit Rights
9. Indemnification, Insurance and Bonding
10. Administration, Enforcement and Remedies
11. Severability and Amendment

Chapter 1 DEFINITIONS

Sections:

- 46.011 Definitions.

46.011 Definitions.

For the purposes of this Division, the following terms, when used with initial capitalization, shall have the meanings set forth in this Section:

(a) AB 939. "AB 939" means the California Integrated Waste Management Act of 1989, being Division 30 of the California Public Resources Code, commencing with Section 40000 thereof, as it may be amended from time to time.

(b) BOARD. "Board" means the San Bernardino County Board of Supervisors.

(c) BULKY WASTE. "Bulky Waste" means Solid Waste which does not fit with the typical residential collection container, and shall include major appliances and objects, including but not limited to, washing machines, clothes dryers, hot water heaters, conventional ovens, stoves, refrigerators, freezers, airconditioners, residential furnaces, and any item with refrigerant.

(d) CHANGE IN LAW. "Change in Law" means the imposition (or removal), after the establishment of a Total Rate relative to a Franchise Agreement, of any duty or burden imposed upon the Grantee in the performance of the Solid Waste Handling services required of it under its Franchise Agreement which is or becomes additional to (or is subtracted from) or different from those duties required or contemplate in its Franchise Agreement, or which must be performed in a different manner from that in which it is initially contemplated to be performed, and which results from any of the following:

(1) the enactment, issuance, adoption, repeal, amendment or modification of any federal, state or local law, statute, ordinance or regulation.

(2) a regulatory agency or other administrative agency interpreting a regulation, a judicial decision of a federal court interpreting federal law or statute, or a judicial decision of a court having jurisdiction within California interpreting a federal, state or local law, statute, ordinance or regulation, in a manner different from the interpretation which had previously been generally relied upon in California within the solid waste collection and hauling industry.

DEFINITIONS

Change in Law does not include any of the items noted in sub-subsections (1) or (2) above, which relate to any tax, [other than a business license tax imposed by the County on a Grantee's performance of Solid Waste Handling services under its Franchise Agreement] including without limit, any tax based or measured on net or gross income, any business, payroll or franchise tax or any employment tax.

(e) CHANGE IN LAW ADJUSTMENT. "Change in Law Adjustment" means the adjustment to Total Rate as determined under the provisions of Section 46.042(e).

(f) CHANGE IN OWNERSHIP. "Change in Ownership" occurs when either a single transaction or event or the cumulative effect of more than one transaction or event, results in fifty percent (50%) or more of the beneficial ownership of the Grantee being different than such ownership as of the date of the approval by the County of the Franchise Agreement or, if applicable, as of the date of the most recent consent of the County to a Change of Ownership. The owners of the beneficial ownership of Grantee on the date of the approval of the Franchise Agreement or, if applicable, on the date of the most recent consent of the County to a Change of Ownership, shall be referred to in this subsection as an "Initial Owner". A Change in Ownership will be determined by application of the following:

(1) Any beneficial interest owned by an individual related by blood or marriage to an Initial Owner shall be considered as owned by an Initial Owner in determining if a Change in Ownership has occurred.

(2) Any public offering of stock where the stock is offered for sale to the general public and does not constitute a private placement shall be disregarded in determining if a Change in Ownership has occurred.

(3) Sales, transfers, issuances or pledges of non-voting shares of stock will not be considered in determining if a Change in Ownership has occurred, until and unless and only to the extent that such stock is converted into voting shares of stock.

(4) The pledge of, or any other action taken relative to, voting shares of stock which results in any voting rights of such stock being exercised by other than an Initial Owner shall be considered to be a transfer of such stock for the purposes of determining if a Change in Ownership has occurred.

(g) CHANGE IN SERVICE LEVEL ADJUSTMENT. "Change in Service Level Adjustment" means the adjustment to Total Rate as determined under the provisions of Section 46.042(d).

(h) COUNTY. "County" means the County of San Bernardino, State of California.

(i) COUNTY SOLID WASTE DISPOSAL SYSTEM. "County Solid Waste Disposal System" means at any particular time, the then-existing Solid Waste Facilities which the County owns, leases or has a contractual right to use.

(j) DEPARTMENT. "Department" means the San Bernardino County Waste System Division or such County department, division or office which is the successor thereto.

(k) DEPARTMENT OF PUBLIC HEALTH, DIVISION OF ENVIRONMENTAL HEALTH SERVICES. "Department of Public Health, Division of Environmental Health Services" means the County department of that name or such County department, division or office which is the successor thereto.

(l) DIRECTOR. "Director" means the Contract Administrator of the Department or the designee of such Person.

(m) EMPLOYMENT COST INDEX. "Employment Cost Index" means the Employment Cost Index, Compensation, Private Industry Workers, as published by the United States Department of Labor Statistics in the publication Monthly Labor Review, Table 22 for the month of March in the year the adjustment is being made, as

DEFINITIONS

contrasted with the same value of that index for the month of March in the preceding year.

(n) ESCALATED DAMAGES. "Escalated Damages" means with respect to the liquidated damages owed by a Grantee pursuant to Section 46.102, the amount of \$50 for each of the first five (5) violations/breaches; \$100 for each of the next five (5) violations/breaches; \$200 for each of the next five (5) violations/breaches and \$500 for each violation/breach in excess of fifteen (15) violations/breaches in any calendar year.

(o) FRANCHISE AGREEMENT. "Franchise Agreement" means the Agreement entered into between the County and the Grantee under the provisions of Section 46.031 which authorizes/requires the Grantee to provide Solid Waste Handling services in a specified Franchise Area.

(p) FRANCHISE AREA. "Franchise Area" means the geographic territory in the Unincorporated County for which the Grantee has been granted a franchise to provide Solid Waste Handling services, as specified in each Franchise Agreement.

(q) FRANCHISE FEE. "Franchise Fee" means the fee paid to the County by the Grantee in consideration of the granting of a franchise pursuant to this Division.

(r) GRANTEE. "Grantee" means a Person granted a franchise pursuant to a Franchise Agreement.

(s) GREEN WASTE. "Green Waste" means discarded Solid Waste consisting of grass clippings, leaves, branches, tree trunks and other vegetative matter.

(t) GROSS RECEIPTS.

(1) "Gross Receipts" means all monies received by Grantee for providing the Solid Waste Handling services specified in its Franchise Agreement.

(2) "Gross Receipts Less Disposal Charges" means Gross Receipts less that part of the monies received by the Grantee that are collected from subscribers for payment of the fee imposed for disposing of the Solid Waste at a Solid Waste Facility comprising a part of the County Solid Waste Disposal System.

(u) HAZARDOUS WASTE. "Hazardous Waste" means any waste material or mixture of waste which is toxic, corrosive, flammable, an irritant, a strong sensitizer, or which generates pressure through decomposition, heat or other means, if such waste or mixture of waste may cause substantial personal injury, serious illness or harm to humans, domestic animals or wildlife during or as a proximate result of any disposal of such waste or mixture of wastes as defined in Article 2, Chapter 6.5, Section 25117 of the California Health and Safety Code and Title 22 of California Code of Regulations, Section 66261.3. The terms "toxic," "corrosive," "flammable," "irritant," and "strong sensitizer" shall be given the same meaning as in the California Hazardous Substances Act (Chapter 12, commencing with Section 28740.1, Division 21 of the California Health and Safety Code).

(v) HEALTH AND SAFETY PERMIT. "Health and Safety Permit" means a current permit issued by the Department of Public Health, Division of Environmental Health Services to a Refuse Collection Operator, Garbage Hauler or Nondomestic Waste Hauler (all as defined in Section 33.081 of this Code), in accordance with Title 14 of the California Code of Regulations and Title 3 of the County Code. The Health and Safety Permit evidences, for a specified period of time, the health and safety inspection and the approval of vehicles, facilities and equipment utilized by a Refuse Collection Operator, Garbage Hauler or Nondomestic Waste Hauler.

(w) MODIFIED TOTAL RATE. "Modified Total Rate" means the Total Rate less all increments thereof which are passed through to the subscriber (e.g., Solid Waste Facility Fee, Franchise Fee).

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(x) MULTI-JURISDICTION LOAD REPORT. "Multi-Jurisdiction Load Report" means a report which sets out the amount, and place of collection, of Solid Waste delivered to the County Solid Waste Disposal System.

(y) PERSON. "Person" includes, without limitation, individuals, associations, clubs, societies, firms, partnerships, joint ventures, sole proprietorships, corporations, limited liability companies, schools, colleges and all governmental agencies and entities.

(z) PROCESSING. "Processing" means the reduction, separation, recovery, conversion or recycling of Solid Waste.

(aa) PRODUCER PRICE INDEX. "Producer Price Index" means the Producer Price Index, Industrial Commodities, as published by the United States Department of Labor Statistics in the publication Monthly Labor Review, Table 6 for the month of March in the year the adjustment is being made, as contrasted with the same value of that index for the month of March in the preceding year.

(bb) RECYCLABLE MATERIALS. "Recyclable Materials", for purposes of this Division only, means discarded Solid Waste which may be sorted, cleansed, treated, processed, and/or reconstituted, and which is segregated for the purpose of reuse or recycling, including, but not limited to, separated paper, glass, cardboard, plastic, ferrous materials or aluminum.

(cc) REFUSE COLLECTION AREA. "Refuse Collection Area" means that area of the Unincorporated County as provided for in Article 2.1 of Chapter 8 of Division 3 of Title 3 of this Code.

(dd) SECURITY. "Security" means a corporate surety bond, a letter of credit or other security device acceptable to the Department, as provided in Section 46.096.

(ee) SOLID WASTE. Except as provided in sub-subsections (1), (2), (3) and (4), "Solid Waste" means all putrescible and nonputrescible solid, semisolid, and liquid wastes, including garbage, trash, refuse, paper, rubbish, ashes, industrial wastes, demolition and construction wastes, abandoned vehicles and parts thereof, discarded home and industrial appliances (subject to salvage and other special handling requirements under applicable law and regulation), dewatered, treated, or chemically fixed sewage sludge which is not Hazardous Waste, manure, vegetable or animal solid and semisolid wastes, and other discarded solid and semisolid wastes, including Recyclable Materials and Green Waste.

(1) "Solid Waste" does not include Hazardous Waste and does not include low-level radioactive waste regulated under Chapter 7.6 (commencing with Section 25800) of Division 20 of the California Health and Safety Code.

(2) "Solid Waste" does not include medical waste (except treated medical waste) which is regulated pursuant to the Medical Waste Management Act (Chapter 6.1 (commencing with Section 25015) of Division 20 of the California Health and Safety Code).

(3) Solid Waste does not include petroleum or a petroleum product or fraction thereof at reasonably detectable levels, asbestos and, with respect to a particular Solid Waste Facility, any waste or material which a regulatory agency, the Facility's solid waste facility permit or County policy, does not allow to be accepted for transfer, Processing, composting, transformation or disposal at that Facility.

(4) Solid Waste does not include items which would be Recyclable Materials but for the fact that they are personally separated from other Solid Waste by the generator thereof and are donated or sold to third parties. For purposes of this Division, no donation or sale shall be deemed to have occurred in any instance where a generator directly or indirectly pays the third party any sum (including without limit as a consulting

DEFINITIONS

fee, container rental or other fees or tangible consideration) either: (i) in lieu of being directly charged for collecting, transporting, processing or recycling such item; or (ii) to offset the payment to the generator for the purported sale of such item to the third party. Nor shall the receipt of a discount of, or reduction in, the disposal service rate on unsegregated Solid Waste containing such an item be deemed to be the donation or sale of such an item to a third party.

(ff) SOLID WASTE FACILITY. "Solid Waste Facility" means any facility that is designed to manage any type of Solid Waste and includes transfer, Processing, composting, transformation and disposal facilities.

(gg) SOLID WASTE FACILITY FEE. "Solid Waste Facility Fee" means the fee charged for use of a Solid Waste Facility.

(hh) SOLID WASTE HANDLING. "Solid Waste Handling" means one or more of the following: the collection of Solid Waste from a commercial, residential, construction or industrial source; the transportation of such Solid Waste to a Solid Waste Facility; and the transfer, Processing, composting, transformation or disposal of such Solid Waste at the Solid Waste Facility. The specific Solid Waste Handling required of Grantee shall be specified in its Franchise Agreement.

(ii) SPECIAL WASTES. "Special Wastes" means all the items and materials which are designated as such in a Franchise Agreement.

(jj) TOTAL RATE. "Total Rate" means the inclusive rate schedule attached to each Franchise Agreement which provides the rates to be paid to Grantee by subscribers in consideration of the Solid Waste Handling services provided by Grantee under its Franchise Agreement.

(kk) UNINCORPORATED COUNTY. "Unincorporated County" means any community or other area within the County which is outside the boundaries of all incorporated cities and towns.

(ll) UNIFORM HANDLING AREAS. "Uniform Handling Areas" means a Franchise Area, or a specified portion of a Franchise Area, in which Uniform Handling Service has been imposed, as specified in a Franchise Agreement.

(mm) UNIFORM HANDLING SERVICE. "Uniform Handling Service" means the mandatory subscription to Solid Waste Handling service required of owners of specified residential, multi-residential, and/or commercial units in a Uniform Handling Area.

Adopted Ordinance #3670 (1996);

PURPOSES AND REQUIRED AUTHORIZATIONS

Chapter 2 PURPOSES AND REQUIRED AUTHORIZATIONS

Sections:

- 46.021 Purposes.
- 46.022 Required Authorizations.

46.021 Purposes.

The purposes of this Division are:

(a) To allow for the establishment of Solid Waste Handling franchises within the unincorporated portion of San Bernardino County, pursuant to authority cited in California Government Code Section 25827, in California Public Resources Code, Sections 40057 through 40059 or 49200 through 49205, in California Code of Regulations (CCR) Title 14, Section 17332 and 17333, and any other applicable state or local law. The implementation of franchises through entering into Franchise Agreements with Grantees will assist the County:

(1) In meeting its obligation to provide Solid Waste Handling services as required in Public Resources Code Section 40057; and

(2) In meeting the requirements of AB 939 which mandate that the County divert twenty-five percent (25%) of its Solid Waste from County landfills by 1995, and fifty percent (50%) by the year 2000;

(b) To help ensure that residents of the Unincorporated County receive the similar quality of waste collection and recycling services as do those residents in the cities and towns of San Bernardino County;

(c) To ensure that programs and service levels for Solid Waste Handling within the unincorporated spheres of influence of cities and towns will replicate, to the extent possible, programs and service levels of adjacent cities and towns;

(d) To minimize, to the extent possible, disruption of programs and services to unincorporated residents in the event of annexations;

(e) To help quantify the waste stream from the Unincorporated County in order to comply with diversion requirements of AB 939; and

(f) To provide by agreement, an opportunity for predictable levels of waste at County landfills to ensure adequate funding for closure/post-closure activities.

Adopted Ordinance #3670 (1996);

46.022 Required Authorizations.

(a) Except as otherwise provided in subsections (b) and (c) of this Section, no Person shall engage in or provide, in the Unincorporated County, Solid Waste Handling services without such Person having and maintaining:

(1) A Health and Safety Permit authorizing the collection, transfer or removal of Refuse (within the meaning of Article 2 of Chapter 8 of Division 3 of Title 3 of this Code); and

(2) (A) With respect to a Franchise Area, a Franchise Agreement authorizing the Person to provide the specified Solid Waste Handling service being provided; or

(B) With respect to a Refuse Collection Area, or any portion thereof which is not a Franchise Area subject to a Franchise Agreement, a Class A permit or temporary

PURPOSES AND REQUIRED AUTHORIZATIONS

permit as provided for in Article 2.1 of Chapter 8 of Division 3 of Title 3 of this Code.

(b) (1) Notwithstanding subsection (a), above, any Person may engage in or provide, in the Unincorporated County, those Solid Waste Handling services related to performing as a Garbage Hauler (within the meaning of Chapter 8 of Division 3 of Title 3 of this Code), without such Person being required to have or maintain a Franchise Agreement or the Class A permit or temporary permit provided for in Article 2.1 of Chapter 8 of Division 3 of Title 3 of this Code.

(2) Notwithstanding subsection (a), above, any Person may engage in or provide, in the Unincorporated County, those Solid Waste Handling services which are related solely to one of the types of Solid Waste set forth below, without such Person being required to have or maintain a Franchise Agreement or the Class A permit or temporary permit provided for in Article 2.1 of Chapter 8 of Division 3 of Title 3 of this Code.

(A) Abandoned vehicles and parts thereof;

(B) Ashes;

(C) Demolition and construction wastes;

(D) Dewatered, treated or chemically fixed sewage sludge; and

(E) Recyclable Materials.

(3) Subsections (b)(1) and (2), above, shall have no application in any Franchise Area to the extent that the County provides in the Franchise Agreement(s) establishing such Franchise Area that any or all of the Solid Waste Handling services related to either performing as a Garbage Hauler or to the types of Solid Waste enumerated in subsection (b)(2) are to be provided pursuant to a Franchise Agreement or Agreements; so long as the Person and/or the Solid Waste Handling service being provided do not otherwise fit within one or more of the exemptions provided in subsection (c) of this Section. The Department shall maintain a list of all areas of the County within which a Franchise Agreement is required in order to provide any of the Solid Waste Handling services which are related to performing as a Garbage Hauler or solely to a type of Solid Waste enumerated in subsection (b)(2).

(c) The provisions of subsections (a) and (b)(3) of this Section shall not apply to those Persons and/or Solid Waste Handling services specified in Section 33.0843 of this Code.

Adopted Ordinance #3670 (1996);

FRANCHISE

Chapter 3 FRANCHISE

Sections:

- 46.031 Franchise Formation and Terms.
- 46.032 Franchise Fee.
- 46.033 Assignment and Change of Ownership.
- 46.034 Title to Solid Waste.

46.031 Franchise Formation and Terms.

(a) The award by the Board of a franchise for Solid Waste Handling shall be evidenced by approval and execution of a Franchise Agreement. The Board may award exclusive or non-exclusive Solid Waste Handling franchises in the Unincorporated County, with or without competitive bidding, through individual Franchise Agreements. A Franchise Agreement shall be granted by the Board when it determines that public convenience and necessity are served by the award of the franchise, and where a partially or wholly exclusive franchise is awarded without competitive bidding, that the granting of such a franchise is in the best interests of County residents based on the health, safety and well being of residents in the Franchise Area where the partially or wholly exclusive franchise is awarded. Each Franchise Agreement shall specify the specific Solid Waste Handling services to be provided by Grantee; a different Grantee may be granted a franchise to provide the same, or different, Solid Waste Handling services in the same Franchise Area.

(b) In order to qualify for the award of a franchise, an applicant must:

(1) have, or obtain prior to the approval of the Franchise Agreement by the County, and maintain for the term of its Franchise Agreement a current Health and Safety Permit to the extent such a permit is required under the provisions of Article 2 of Chapter 8 of Division 3 of Title 3 of this Code in order to provide the Solid Waste Handling services to be provided under the Franchise Agreement; and

(2) demonstrate a minimum of three (3) years experience in providing substantially the same type, class and extent of services as those for which the franchise is sought; and

(3) provide to the Director the information which is required of an applicant for a Health and Safety Permit pursuant to Section 33.0825 of this Code.

(c) (1) The terms and conditions by which the Grantee shall be obligated to provide Solid Waste Handling services shall be as set forth in this Division and, with respect to the items set forth in this subsection (c), as set forth in the Franchise Agreement.

(A) The Franchise Area, including any Uniform Handling Area.

(B) The specific Solid Waste Handling services (including without limit the Minimum Diversion Requirement as provided in Section 46.093) to be provided by Grantee, including appropriate operating requirements.

(C) The Total Rates related to the specified Solid Waste Handling services to be provided by Grantee and the method of billing its subscribers.

(2) (A) If the County and the Grantee so agree, the Franchise Agreement may specify the Solid Waste Facility or Facilities to which the Grantee will transport the Solid Waste collected pursuant to Solid Waste Handling services provided under the Franchise Agreement.

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(B) If the County and the Grantee so agree, the Franchise Agreement may allow the County to specify a different or additional Solid Waste Facility to which the Grantee will transport the Solid Waste collected pursuant to the Solid Waste Handling services provided under the Franchise Agreement. In such event, the Franchise Agreement may contain a cost per ton mile figure which sets forth the increase in the Grantee's demonstrable costs related to such a change.

(C) If the County and the Grantee so agree, the Franchise Agreement may specify that upon the effective date of the Franchise Agreement the Grantee waives and forgoes any other rights it might have to provide Solid Waste Handling services in other specified portions of the Unincorporated County, including any rights it might otherwise have under Public Resources Code Section 49520 or other law to receive advance notice of the cancellation of any permit or other authorization to provide such services.

(d) (1) The initial term of a Franchise Agreement shall be 7 years. Any extension of a Franchise Agreement shall be 5 years. Notwithstanding the forgoing, the County reserves the right to increase the length of the 7 year initial term or any 5 year extension if it believes that such an increase is in the best interests of the subscribers being serviced by the Grantee under the Franchise Agreement.

(2) A Franchise Agreement shall be automatically extended for successive 5 year terms unless by Board action the Board determines in its sole discretion that the Franchise Agreement shall not be extended. The action to not extend a Franchise Agreement must be taken by the end of the year which is 3 years prior to the end of the initial term (e.g., by the end of the 4th year of a 7 year term), or by the end of the year which is 2 years prior to the end of an extended term (e.g., by the end of the 3rd year of a 5 year extension). If the Board determines that a Franchise Agreement will not be extended, the Franchise Agreement shall expire (unless sooner terminated under the provisions of this Division) at the end of the then current term.

(e) The Franchise Agreement shall set forth the Total Rate (i.e., the inclusive schedule of rates to be paid to Grantee for Solid Waste Handling services provided to subscribers under its Franchise Agreement). The Total Rate shall be subject to review and adjustment pursuant to the provisions of this Division. If and when adjustments to the Total Rate are made pursuant to the provisions of this Division, the Director shall cause a certification of each such adjustment to be lodged with the County's official copy of the Franchise Agreement. No Total Rate or adjustment to same shall be implemented until approved by the Board or by the Director, as provided in this Division.

(f) Non-performance by Grantee of the terms and conditions contained in this Division or in its Franchise Agreement, or the occurrence of one or more of the events set forth in Section 33.0827 of this Code, shall provide grounds for the loss of or limitation upon the Grantee's right to provide Solid Waste Handling services pursuant to its Franchise Agreement and for the termination of its Franchise Agreement. Grantee shall perform no Solid Waste Handling services under its Franchise Agreement without possessing the required Health and Safety Permit.

(g) Except when otherwise required by applicable state, federal or local law, the terms and conditions of this Division shall prevail over any inconsistent provisions of a Franchise Agreement.

(h) The Grantee under any Franchise Agreement is an independent contractor and not an officer, agent, servant, or employee of County. Grantee is solely responsible for the acts and omissions of its officers, agents, and employees, if any. Nothing in any Franchise Agreement shall be construed as creating a partnership or joint venture between County and Grantee. Neither Grantee nor its officers, agents, or employees

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shall obtain any rights to retirement or other benefits which accrue to County employees.

(i) Grantee shall have the right to enter or drive on any private street, court, place, easement, or other private property for the purpose of providing Solid Waste Handling services pursuant to its Franchise Agreement, so long as it is not in receipt of a written notice revoking permission to pass.

Adopted Ordinance #3670 (1996);

46.032 Franchise Fee.

Grantee shall pay to the County a Franchise Fee equal to the then current and effective Franchise Fee set forth in the County Schedule of Fees, currently found at Chapter 2 of Division 6 of Title 1 of the San Bernardino County Code. The payment of a Franchise Fee shall not limit the County's ability to establish and levy a business license tax, fees, charges, assessments, penalties, fines, and other requirements for monetary payment by the Grantee to the County. Payment of Franchise Fee shall be made monthly. The Franchise Fee shall constitute a cost which Grantee may recover as a part of the compensation due Grantee under the Franchise Agreement.

Adopted Ordinance #3670 (1996);

46.033 Assignment and Change of Ownership.

(a) Neither any Franchise Agreement nor any right or privilege granted in any such Agreement shall voluntarily or involuntarily be transferred, sold, hypothecated, sublet, assigned or leased, in whole or in part, nor shall title thereto, either legal or equitable, or any right, interest, or property therein (all collectively referred to herein as "transfer"), pass to or vest in any Person, except the Grantee, either by act of the Grantee or by operation of law, without the prior written consent of the Board. Any attempt by Grantee, or by operation of law, to transfer any Franchise Agreement without the prior written consent of the Board shall be void.

(b) The Franchise Agreement shall terminate on any Change in Ownership of Grantee, unless such Change in Ownership has been consented to, in writing, by the Board prior to the effective date of such Change in Ownership.

(c) The County shall review a request by Grantee that the Board approve a transfer of all or part of Grantee's interest in a Franchise Agreement, or that the County consent to a Change in Ownership of Grantee, using such criteria as it deems necessary including, but not limited to, those listed below. The County shall not unreasonably withhold its consent to the transfer of any Franchise Agreement or to any Change in Ownership of Grantee. In no event, however, will any such transfer or Change in Ownership be approved unless the proposed assignee, or Grantee under its proposed new ownership, as the case may be, is shown to the satisfaction of the Board to meet the qualifications established by this Division for the approval, in the first instance, or retention of a Franchise Agreement.

If the Grantee requests that the County consider and consent to a transfer or a Change in Ownership of Grantee, the Grantee or the proposed transferee, as applicable, shall at a minimum meet each of the following requirements:

(1) The Grantee shall pay the County its reasonable expenses for attorney's fees and investigation costs necessary to determine the suitability of any proposed transferee or proposed new owners, and to review and finalize any documentation

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required as a condition for approving any such transfer or Change in Ownership.

(2) The Grantee shall furnish the County with independently audited financial statements of the proposed transferee's operations for the immediately preceding three (3) operating years.

(3) The Grantee shall furnish the County with satisfactory proof:

(A) that the proposed transferee or the proposed management of the Grantee under the proposed new owner has at least three (3) years of solid waste management experience of a scale equal to or exceeding the scale of operations conducted by Grantee under this Agreement;

(B) that in the last five (5) years, the proposed transferee or any company managed by the proposed new owner (or by the proposed management of the Grantee under the proposed new owner) has not received any citations, Notice of Violations or other censure from any federal, state or local agency having jurisdiction over its waste management operations due to any failure to comply with state, federal or local waste management laws, where such failure either: (i) evidences a pattern of disregard for such state, federal or local waste management laws; or (ii) involves actions which endangered the lives or property of any Person. Grantee shall supply the County with a complete list of such citations, Notices of Violations and censures, if any;

(C) that the proposed transferee or any company managed by the proposed new owner (or by the proposed management of the Grantee under the proposed new owner) has at all times conducted its operations in an environmentally safe and conscientious fashion;

(D) that the proposed transferee or any company managed by the proposed new owner (or by the proposed management of the Grantee under the proposed new owner) conducts its solid waste management operations in accordance with sound waste management standards and practices and in full compliance with all federal, state and local laws regulating the collection and disposal of waste;

(E) of the adequate financial strength of proposed transferee or of the Grantee under the proposed new ownership; and

(F) of the ability of the proposed transferee or of the Grantee under the proposed new ownership to obtain and maintain required insurance and bonds.

(d) The County may impose reasonable new conditions of approval on a Franchise Agreement transfer, or consent to a Change in Ownership of Grantee, including, but not limited to, conditions requiring acceptance of amendments to the relevant Franchise Agreement.

Adopted Ordinance #3670 (1996);

46.034 Title to Solid Waste.

Ownership of Solid Waste shall transfer to Grantee at such time as the Solid Waste is abandoned and discarded by the Solid Waste Handling service subscriber of Grantee in the location provided in Section 33.088 of this Code.

Adopted Ordinance #3670 (1996);

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Chapter 4 COMPENSATION

Sections:

- 46.041 Compensation.
- 46.042 Adjustment to Total Rate.
- 46.043 Dispute Resolution re Adjustment to Total Rates.
- 46.044 Notice to Subscribers re Certain Adjustments.
- 46.045 Discontinuance of Service for Non-Uniform Handling Service.

46.041 Compensation.

(a) Charges for Solid Waste Handling services (including, without limit, for use of a Solid Waste Facility) provided to Grantees' subscribers shall be paid by such service subscribers in accordance with the Total Rate approved by the Board in its approval or extension of the Franchise Agreement with Grantee, as such Total Rate is adjusted pursuant to Section 46.042. By April 1 of each year the Grantee shall warrant to the County, in a writing signed by an officer, that during the prior calendar year it billed all of the Solid Waste Handling service subscribers provided service under its Franchise Agreement at the rates set forth in the Total Rate approved with and applicable to its Franchise Agreement, as such Total Rate may have been adjusted pursuant to the provisions of this Chapter. Copies of subscriber billings which demonstrate the above shall be made available to the Department on its request.

(b) All charges for services rendered by a given Grantee shall be uniform and non-discriminatory for the type of service provided and reasonably based upon the type and/or number of containers, type of Solid Waste, whether compacted or loose, number of separate pick-up points at any place of collection, placement of container(s) or distance of carry-out, frequency of collection, remote location, terrain, disposal costs, and whether residential, commercial, construction or industrial collection.

(c) (1) In cases where Grantee includes a Solid Waste Facility Fee amount as a separate listing on a subscriber's bill, the County shall prescribe the amount consistent with waste generation factors established in the Franchise Agreement and the applicable Solid Waste Facility Fee.

(2) Grantee shall refund to each subscriber, on a pro rata basis, any advance service payments made by such subscriber for service not provided when service is discontinued by timely written notification to Grantee by the subscriber. Grantee may not require written notice to be given more than fifteen (15) working (waste collection) days prior to the date on which service is desired to be discontinued.

(3) On a quarterly basis, the County shall be allowed to furnish, for inclusion with Grantee's billing, a message for the purpose of public education regarding waste disposal, recycling, or other environmental issues. If Grantee mails its billing in an envelope, two of the four County messages may be in the form of a one (1) page insert, provided the insert is: print ready copy which conforms to Grantee's billing, is delivered to Grantee by the Department fifteen (15) working (waste collection) days in advance of Grantee's billing date and does not cause an increase in the postal rates payable by Grantee for mailing its billing. If the message is not in the form of an insert, it shall be printed by Grantee on its bills. Such message shall not exceed twenty-five (25) characters and shall be delivered to Grantee by the Department fifteen (15) working

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(waste collection) days in advance of Grantee's billing date. Grantee shall include such insert in, or print such message on, each subscriber's next billing.

Adopted Ordinance #3670 (1996);

46.042 Adjustment to Total Rate.

The following annual and special rate adjustments shall be made to the Total Rate provided for in a Franchise Agreement. However, no rate adjustment shall be implemented for or during any period of time when the affected Grantee is not in substantial compliance with all material provisions of this Division.

(a) Cost of Living Adjustment:

(1) From and after the first July 1, following the effective date of a Franchise Agreement, the Total Rate shall be annually adjusted upwards by adding the following cost of living adjustment to the then current Total Rate. The cost of living adjustment shall be equal to the consumer price adjustment (as described herein) multiplied by the then current Modified Total Rate (i.e., the Total Rate less all increments thereof which are passed through to the subscriber [e.g., Solid Waste Facility Fee, Franchise Fee]).

(2) The consumer price adjustment shall equal:

(A) Seventy percent (70%) multiplied by the year-over-year change in the Employment Cost Index; plus

(B) Thirty percent (30%) multiplied by the year-over-year change in the Producer Price Index;

except that in determining any annual cost of living adjustment the consumer price adjustment shall in no event be less than two percent (2%) nor greater than eight percent (8%).

(3) The cost of living adjustment for the first July 1 following the effective date of a Franchise Agreement shall equal the cost of living adjustment as determined above, multiplied by a fraction, the denominator of which is 12 and the numerator of which is the number of whole months between the Franchise Agreement's effective date and the specified July 1.

(4) If either or both the Employment Cost Index and the Producer Price Index are no longer published by the United States Department of Labor Statistics, then the consumer price adjustment shall be determined by using the index which is published by the United States Department of Labor Statistics as a substitute for the discontinued Index.

(b) Solid Waste Facility Fee Adjustment: The Solid Waste Facility Fee adjustment shall be the pass through of one hundred percent (100%) of any increase or decrease in the fee charged to the Grantee for use of a Solid Waste Facility approved for use by the Department, calculated on a per subscriber basis, and shall be effective as of the date of the change to such fee.

(c) Franchise Fee Adjustment: The Franchise Fee adjustment shall be the pass through of one hundred percent (100%) of any increase or decrease in the Franchise Fee, and shall be effective as of the date the Franchise Fee increase or decrease is payable by the Grantee.

(d) Change in Service Level Adjustments:

(1) The Total Rate shall be increased (or decreased) by one hundred percent (100%) of the increase (or decrease) or incremental increase (or incremental decrease), as the case may be, in the demonstrable costs (i.e., on any direct or indirect cost, whether fixed or variable) associated with the change in the level of the Solid Waste

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Handling services which may be required of, or agreed to by, a Grantee. A Change in Service Level Adjustment shall be effective on and after the actual date of the requirement to or agreement to change operations which results from the change in service, but, absent the consent of the Department, not sooner than the effective date of the change in service. In no event shall any Change in Service Level Adjustment be effective prior to the Board's approval of an amendment to the applicable Franchise Agreement.

(2) In the event that the Department and the Grantee claiming to be affected by the change in service level cannot agree on either the existence, or the effect on demonstrable costs, of a change in service level, the dispute resolution provisions of Section 46.043(a) shall apply.

(e) Change in Law Adjustments:

(1) The Total Rate shall be increased (or decreased) by one hundred percent (100%) of the increase (or decrease) or incremental increase (or incremental decrease), as the case may be, in the demonstrable costs (i.e., on any direct or indirect cost, whether fixed or variable) associated with the change in the manner or nature of conducting Solid Waste Handling services necessitated by a Change in Law. A Change in Law Adjustment shall be effective on and after the actual date of the change in operations which resulted from the Change in Law, but, absent the consent of the Department, not sooner than the effective date of the Change in Law. In no event shall any Change in Law Adjustment be effective prior to the Board's approval of an amendment to the applicable Franchise Agreement.

(2) In the event that the Department and the Grantee claiming to be affected by the Change in Law cannot agree on either the existence, or the effect on demonstrable costs, of a Change in Law, the dispute resolution provisions of Section 46.043(a) shall apply.

Adopted Ordinance #3670 (1996);

46.043 Dispute Resolution re Adjustment to Total Rates.

(a) Any dispute regarding any Change in Service Level Adjustment or Change in Law Adjustment provided for in Sections 46.042(d) and (e) above, which cannot be resolved between the Grantee and the Department within thirty (30) days of the receipt by the Department of such documents as the Department may reasonably request, shall be submitted to a mutually agreed upon expert in the subject matter area of the dispute to resolve the dispute as to either or both: (i) the existence of a change in the level of service or a Change in Law; and/or (ii) the effect on the Grantee's demonstrable costs of a change in the level of service or a Change in Law. The decision of the expert shall be binding on the Grantee and the County. The cost of the expert shall be borne equally by the Grantee and the County. If the Grantee and County cannot mutually agree upon an expert, either may petition the Superior Court of the County of San Bernardino to have an expert chosen by the court. The County and Grantee shall each have the right to suggest one expert to the court; the court shall chose one of the suggested experts.

(b) Any dispute regarding the current rate schedule or rate adjustments (except those disputes related to a Change in Service Level Adjustment or Change in Law Adjustment) shall be decided by the Director within ten (10) working days after receipt of a written statement from the Grantee of the nature and basis of the dispute with a request that it be resolved by the Director. Grantee shall have the right to appeal the Director's decision in writing to the Board within thirty (30) days after the Director has given the Grantee

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written notice of the decision. Such appeal shall conform to the appeal provisions set forth in Section 46.101 of this Division in respect to the form of the Notice of Appeal, the time limits for processing the appeal, and the amount of fees, if any, connected therewith. The Board may consider the appeal or refer said appeal to a hearing officer as provided in Section 46.101 of this Division.

(c) The most recent rates approved by the Director in effect at the time a dispute is submitted to either the expert or Director, as the case may be, shall remain in effect pending resolution of such dispute. The effective date of any dispute resolution, whether retroactive or prospective, shall be determined by the expert, the Director, the Board or a hearing officer, as appropriate.

Adopted Ordinance #3670 (1996);

46.044 Notice to Subscribers re Certain Adjustments.

(a) No Change in Service Level Adjustment increase or Change in Law Adjustment increase which applies to five hundred (500) or more Solid Waste Handling Service subscribers or to subscribers cumulatively generating one thousand five hundred (1,500) or more cubic yards of Solid Waste per month may be implemented until at least ten (10) days after completion of publication of a notice of the proposed increase as set forth herein.

(b) The notice shall be published at the Grantee's expense in a newspaper which is published once a week or more often and which is of general circulation within the community or geographical area affected by the proposed rate increase. The notice shall be published once a week for two (2) successive weeks, with at least five (5) days intervening between the respective publication dates. The period of notice commences upon the first day of publication and is completed upon the date of the second publication.

(c) The notice shall be in the form of a display advertisement at least one-sixteenth (1/16) of a page in size and shall contain, at a minimum, the following information:

(1) The name, address and toll-free telephone number of the Grantee;

(2) In bold print letters at least one-quarter inch (1/4") high the words, "NOTICE OF PROPOSED INCREASE IN CHARGES FOR SOLID WASTE HANDLING SERVICES";

(3) A statement that an increase in service rates may occur, specifying which rates would be affected if the increase were approved, and stating the current rate and the proposed new rate;

(4) The effective date of each proposed rate increase; and

(5) A statement that any interested person may submit written comments concerning the proposed rate increase or increases to the Contract Administrator of the Waste System Division of the County of San Bernardino, giving the mailing address for the Contract Administrator and giving the date by which comments must be received by the Contract Administrator in order to be sure of consideration. Such date shall be no earlier than the tenth (10th) calendar day after the completion of publication of the notice.

(6) Proof of publication of the notice shall be furnished to the Director before any Change in Service Level Adjustment or Change in Law Adjustment is approved or implemented.

Adopted Ordinance #3670 (1996);

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46.045 Discontinuance of Service for Non-Uniform Handling Service.

Except where Uniform Handling Service is implemented, Grantee may discontinue service for non-payment of subscriber's billing or subscriber's failure to substantially comply with the requirements of the applicable provisions of state or local law which govern use, storage and collection of Solid Waste. After the Grantee has given fifteen (15) days' notice to subscriber for non-payment, Grantee shall notify the Director in writing of any service termination including a written copy of the notice to the subscriber. Upon payment of the delinquent fees, if applicable, Grantee shall resume collection on the next regularly scheduled collection day. Any Grantee operating in a Uniform Handling Area shall not discontinue service except as allowed in Section 46.057.

Adopted Ordinance #3670 (1996);

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Chapter 5 UNIFORM HANDLING SERVICE

Sections:

- 46.051 Uniform Handling Service.
- 46.052 Owner Responsible for Payment for Uniform Handling Service.
- 46.053 Failure to Provide Sufficient. Solid Waste Containers.
- 46.054 Exemption from Uniform Handling Service.
- 46.055 Temporary Discontinuance of Service.
- 46.056 Treatment of Delinquent Accounts.
- 46.057 Discontinuance of Service.
- 46.058 Penalties for Violations.
- 46.059 Illegal Dumping Retrieval Services.

46.051 Uniform Handling Service.

(a) Uniform Handling Service and Uniform Handling Areas shall be established by the adoption, or amendment, of an individual Franchise Agreement which contains provisions establishing same. Uniform Handling Service may but need not be implemented in every Franchise Area, nor in all parts of a given Franchise Area, nor imposed on the owners of all classes of dwellings or commercial or industrial units within a given Uniform Handling Area. If Uniform Handling Service is implemented for all or part of a particular Franchise Area, all owners of a dwelling or a commercial or industrial unit within the Uniform Handling Area who are required to have Uniform Handling Service shall, upon notice thereof, be required to accept Uniform Handling Service from the Grantee (or one of the Grantees) holding a Franchise Agreement for the Uniform Handling Area and pay the rate for such services currently in effect under the Total Rate of the applicable Franchise Agreement. The Department shall maintain a list of all areas of the County where a Franchise Agreement establishes a Uniform Handling Area; the list shall specify the class of owners of dwellings and/or commercial or industrial units within each Uniform Handling Area required to have Uniform Handling Service.

(b) Uniform Handling Service shall not be imposed on the owner of any class of dwelling or commercial or industrial unit located in an Agricultural Preserve Overlay District within the sphere of influence of the City of Chino or of the City of Ontario, as designated upon the land use district maps of the County General Plan.

Adopted Ordinance #3670 (1996);

46.052 Owner Responsible for Payment for Uniform Handling Service.

(a) The owner of each dwelling or commercial or industrial unit subject to Uniform Handling Service shall be required to accept, and pay the applicable rate set out in the Total Rate for, the Uniform Handling Service rendered to such unit by a Grantee and shall place at a location accessible to the Grantee, a container(s) of adequate capacity and functional design in accordance with this Division and with Division 3 of Title 3 of this Code for the storage of Solid Waste generated on the premises. Such owner shall be responsible to provide such container(s) unless the Franchise Agreement requires the Grantee to provide such container(s).

(b) Nothing in this Section is intended to prevent the entering into of an arrangement, or the continuance of an existing arrangement, approved in writing by the Grantee, under which statements or invoices for Uniform Handling Service are billed to and payments are

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made by a tenant or tenants, or any agent, on behalf of the owner. However, unless otherwise provided therein, any such arrangement shall not lessen or substitute for the owner's obligation to the Grantee or, unless separately approved in writing by the Department, to the County under this Division.

Adopted Ordinance #3670 (1996);

46.053 Failure to Provide Sufficient Solid Waste Containers.

When in the judgment of the Director (whether or not at the request of the Grantee or owner) additional Solid Waste container(s) compatible with the Solid Waste Handling system are required, they must be provided by the owner, or by the Grantee if the Franchise Agreement requires the Grantee to provide container(s), upon written notification by the Director. All containers shall conform to the requirements of Sections 33.086 and 33.087 of this Code.

Adopted Ordinance #3670 (1996);

46.054 Exemption from Uniform Handling Service.

(a) Dwellings.

(1) The owner of any dwelling may apply to the Department for exemption from Uniform Handling Service by submitting a written application to the Director accompanied by a non-refundable application fee requesting a permit to provide self-haul Solid Waste Handling. This permit, if approved, shall be valid for one (1) year, and must be renewed annually thereafter at the discretion of the Director upon submittal of an application therefor and payment of the application fee to the Department.

(2) The exemption and renewal applications shall be made on forms approved by the Director.

(3) The owner may be granted an exemption provided he or she can adequately document that he or she can properly transport all Solid Waste generated on the premises, in a safe and sanitary manner, to an approved Solid Waste Facility. The Director may require the owner to furnish evidence of such delivery of waste.

(4) The application fee shall include an administrative fee as determined by the Board, if any, in addition to the pre-payment of the average annual landfill disposal cost for County residents as determined by the Director. Each application for annual renewal of such an exemption shall be accompanied by the administrative fee plus the applicant's required pre-payment of the average annual landfill disposal cost. This pre-payment will be retained by the Department as a pre-payment for one year's weekly Solid Waste disposal. The pre-payment requirement shall be waived with respect to residences located within those land use areas for which parcel fees are collected for the operation of County Solid Waste Disposal System.

(5) The Director shall provide the owner who pays the pre-payment of the average annual landfill disposal cost with a card or other document which attests to such pre-payment and which allows weekly disposal privileges at all facilities within the County Solid Waste Disposal System in a manner consistent with the disposal rights of a resident who has paid a parcel fee for the operation of County Solid Waste Disposal System.

(6) Should the owner violate any provisions of this Division or of any provision of Chapter 7 or Chapter 8 of Division 3 of Title 3 of the San Bernardino County Code, the Director may, upon advance written notice to the owner, revoke the exemption and

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require the owner to subscribe to and pay for Uniform Handling Services as described in this Chapter.

(b) Commercial/Industrial Units.

(1) The owner of any commercial or industrial unit may apply for exemption from Uniform Handling Service by submitting a written application to the Director on a form issued by the Director, accompanied by a non-refundable application fee, requesting a permit to provide self-haul Solid Waste Handling and transportation. This permit, if approved, shall be valid for one (1) year, and must be renewed annually thereafter at the discretion of the Director upon submittal of application therefore and deposit of application fees to the Director.

(2) The exemption and renewal applications shall be on a form approved by the Director.

(3) The owner may be granted an exemption provided he or she can establish to the satisfaction of the Director that he or she can properly transport all Solid Waste generated on the premises, to an approved Solid Waste Facility, in a safe and sanitary manner in accordance with each of the following conditions:

(A) The vehicles and equipment to be used for transporting the Solid Waste shall be identified in the application by the owner;

(B) The vehicles used shall meet all the standards, if any, prescribed for such use by the California Vehicle Code; and

(C) A credit account with the Department must be maintained in good standing.

(4) The Director may require the owner to furnish evidence of such delivery of Solid Waste.

(5) The application fee shall include an administrative fee as determined by the Board, if any.

(6) Should the owner violate any provision of this Division or any provision of Chapter 7 or Chapter 8 of Division 3 of Title 3 of the San Bernardino County Code, the Director may, upon advance written notice to the owner, revoke the exemption and require the owner to subscribe to and pay for Uniform Handling Services as described in this Chapter.

Adopted Ordinance #3670 (1996);

46.055 Temporary Discontinuance of Service.

(a) Any residential owner may discontinue Uniform Handling Service by a Grantee up to two (2) times during a given fiscal year (i.e., July 1 - June 30). Each discontinuance of service shall be for periods of thirty (30) days or more and shall be allowed only if the serviced residence will be unoccupied and no appreciable amount of waste will be generated throughout the entire period of discontinuance.

(b) The owner shall give written notification to the Grantee at least fifteen (15) working (waste collection) days prior to the first day of the period for which discontinuance of service is requested pursuant to this Section.

(c) Special discontinuance/resumption of Uniform Handling Services schedules may be approved by the Director for vacation homes. Such special schedules may allow for Uniform Handling Services to be provided at specified intervals which are different from regular service intervals and may contain such special provisions as to discontinuance or resumption fees as are deemed appropriate by the Director.

(d) Should an owner, after discontinuing service, request that service be re-established, the Grantee may charge a resumption fee equal to, but not exceeding, fifty

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percent (50%) of the cost for one (1) month's regular Uniform Handling Service as specified in the applicable Franchise Agreement. In no event shall a resumption fee exceed Fifty Dollars (\$50.00).

(e) Any discontinuance of service established pursuant to this Section shall be canceled if the Director determines that the conditions cited in subsection (a) of this Section no longer exist. Any special handling schedule established pursuant to this Section shall be canceled if the Director determines that a violation of Sections 33.083, 33.084 or 33.085 of this Code has or will occur on account of such special schedule.

Adopted Ordinance #3670 (1996);

46.056 Handling of Delinquent Accounts.

(a) The Total Rate owed by the owner of a dwelling or commercial or industrial unit for Uniform Handling Service rendered to such owner's property (or which have been attempted to be rendered, if Uniform Handling Service is not allowed to be provided by action of the owner or tenant) shall be a civil debt owed to the Grantee providing the Uniform Handling Service. As used herein, "Delinquent Fees" shall mean the fees under the Total Rate which are due for Uniform Handling Service rendered to an owner's property (or which have been attempted to be rendered, if Uniform Handling Service is not allowed to be provided by action of the owner or tenant) but which have not been paid for ninety (90) days or more after the mailing of the invoice related to such service.

(b) Any Delinquent Fees, and the related penalties and interest and costs of collection, shall be considered a debt owed to the County.

(c) Quarterly each Grantee shall provide a list to the Department of all accounts which have Delinquent Fees. This list shall set out the amount of the Delinquent Fees, the time period for which the services related to the Delinquent Fees were provided, the identity of the property to which the service has been provided and the owner of such property.

(d) Pursuant to California Health and Safety Code Sections 5473 through 5473a, the County elects to have Delinquent Fees, and the related penalties and interest and costs of collection, collected on the tax roll in the same manner, by the same person, and at the same time as, together with but not separately from, its general taxes. This election shall remain in effect until June 30, 2006.

(1) Pursuant to Health and Safety Code Section 5473.10 the County hereby imposes:

(A) A basic penalty of ten percent (10%) of the Delinquent Fees, which shall be assessed and shall be due and owing at the same time and in the same manners as the Delinquent Fees; and

(B) Simple interest on the Delinquent Fees of one and one-half percent (1½%) per month, which interest shall be assessed and shall be due and owing at the same time and in the same manner as the Delinquent Fees.

(2) The County shall cause a written report to be prepared each year and filed with the Clerk of the Board. The report shall contain a description of each parcel of real property receiving Uniform Handling Service for which Delinquent Fees exist, and the amount of the Delinquent Fees (and the associated basic penalty and interest and costs of collection) related to that real property.

(3) After providing any statutorily required notice and holding any statutorily required hearing, and following the final determination of the Board as to the Delinquent Fees detailed in the report, the Clerk of the Board shall, on or before August 10, of each year, file with the County Auditor/Controller-Recorder a copy of the report with a

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statement endorsed thereon over his or her signature that the report has been finally adopted by the Board. The Auditor/Controller-Recorder shall then enter the amounts of the Delinquent Fees (and the associated basic penalty and interest and costs of collection) against the respective lot or parcel of land as they appear on the current assessment roll.

(e) Any Delinquent Fees (and the associated basic penalty and interest and costs of collection) which are collected by the County shall be allocated as follows:

(1) First, to the County up to the amount of the County's costs of collection;

(2) Next, to the Grantee which provided the Uniform Handling Service which gave rise to the Delinquent Fees, up to the amount of the Delinquent Fees and the associated interest provided for in subsection (d)(1)(B);

(3) The remainder, if any, to the County.

(f) As used herein, the County's costs of collection include, but are not limited to, any staff time and related expenses or department charges involved in preparing the report, placing the Delinquent Fees on the tax roll, collecting or distributing the Delinquent Fees and determining which monies received by the Department from the tax collector relate to which Delinquent Fees account.

(g) The County has no liability to pay the Grantee any amount or sum for any Delinquent Fees and/or the associated interest to the extent same are not collected by the County.

Adopted Ordinance #3670 (1996);

46.057 Discontinuance of Service.

Unless Grantee is otherwise directed by Director, Grantee shall not refuse to provide, or discontinue the providing of, Solid Waste Handling service to any subscriber in a Uniform Handling Area required to subscribe for Uniform Handling Service.

Adopted Ordinance #3670 (1996);

46.058 Penalties for Violations.

Except as otherwise allowed in Section 46.054, it shall be unlawful for any Person to fail or refuse to subscribe or pay for Uniform Handling Services implemented under this Chapter. Such a failure or refusal to subscribe or pay for required Uniform Handling Services shall subject such Person to the penalties provided in Section 46.111.

Adopted Ordinance #3670 (1996);

46.059 Illegal Dumping Retrieval Service Fee.

Within Uniform Handling Areas, at the direction of the County, Grantee agrees to bill subscribers for and collect an Illegal Dumping Retrieval Service Fee as established from time to time by the Board as part of the County Code. Such fee may be changed by the Board, by providing sixty (60) days written notice of a change to Grantee. The Grantee, as directed in writing by the County, shall either remit the fee collected to the County or provide mutually agreed upon specified illegal dumping retrieval and disposal services.

Adopted Ordinance #3670 (1996);

UNIFORM HANDLING SERVICE

MINIMUM OPERATING REQUIREMENTS AND PROGRAMS

Chapter 6 MINIMUM OPERATING REQUIREMENTS AND PROGRAMS

Sections:

- 46.061 Minimum Operating Requirements.
- 46.062 Special Collection Programs.

46.061 Minimum Operating Requirements.

The following minimum operating requirements shall apply to each Grantee, except to the extent any operating requirement is specifically eliminated or modified in that Grantee's Franchise Agreement:

(a) Employees:

(1) Each employee or other Person driving a Grantee's vehicle shall at all times have a valid California vehicle operator's license appropriate for the vehicle being driven.

(2) All Grantee employees shall wear clean clothing of a uniform type when engaged in collection operations.

(3) Each employee dealing with subscribers, including without limit those engaged in collection or billing, shall at all time behave in a courteous manner.

(b) Hours of collection: Grantees shall not collect Solid Waste within a residential area or commercial area which is contiguous to a residential area between the hours of 10:00 P.M. and 6:00 A.M. the next day.

(c) Office for Inquiries and Complaints: Each Grantee shall maintain an office at some fixed place and shall maintain a locally listed toll-free telephone number. Such listing shall be in the Grantee's name or in the fictitious business name under which Grantee provides Solid Waste Handling services to the Area. Each Grantee shall provide live telephone service lines for subscribers from 8:00 A.M. to 5:00 P.M., during all days of Solid Waste Handling Service, to answer inquiries and receive complaints. The number of toll free telephone lines provided shall be sufficient to adequately serve the public. The Grantee shall notify the Department, in writing, seven (7) days prior to any change in business name, address, or telephone number. Such notice shall set forth the corrected information. This Section shall not require the Grantee to maintain an office which is different than or separate from the office for inquiries and complaints maintained by Grantee under Chapter 8 of Division 3 of Title 3 of this Code.

(d) Records and Reports: Each Grantee shall prepare, maintain and provide to the Department such records and reports as required in this Division, as well as those required under any other applicable law.

(e) Requested Service: Each Grantee shall provide Solid Waste Handling services to all subscribers within its approved Franchise Area who request such service, except when denial or discontinuance of service is specifically authorized by this Division. Such service shall commence within seven (7) working (waste collection) days of the subscriber's request.

(f) Collection Frequency: For health and safety purposes, minimum collection frequency for all Solid Waste Handling subscribers shall be as prescribed by the Department of Public Health, Division of Environmental Health Services. Grantee shall correct any missed collection of a subscriber's Solid Waste within 2 working (waste collection) days of notice thereof, unless the next regular collection of such waste is scheduled to occur within 3 working (waste collection) days of such notice.

(g) Containers: In addition to any requirement Grantee is subject to under its Health

MINIMUM OPERATING REQUIREMENTS AND PROGRAMS

and Safety Permit, each container shall be replaced in its proper place in a neat and orderly manner; any litter spilled from a container by Grantee's employees while emptying a container shall be cleaned up.

(h) Noise: In addition to any requirement Grantee is subject to under its Health and Safety Permit or other applicable law, Grantee shall not create any noise in excess of what is reasonable and necessary in providing Solid Waste Handling services to its subscribers.

(i) Collection Equipment: Grantee shall provide an adequate number of vehicles and equipment to provide the Solid Waste Handling services required under its Franchise Agreement. No vehicle shall be used for the collection and transportation of Solid Waste prior to such initial and/or periodic inspection and approval by the Department of Public Health, Division of Environmental Health Services to the extent required under the Grantee's applicable Health and Safety Permit.

(1) All motor vehicles used by Grantee under its Franchise Agreement shall be registered with the Department of Motor Vehicles of the State of California (unless otherwise allowed in writing by the Director), shall be kept clean and in good repair, and shall be uniformly painted.

(2) Solid Waste collection motor vehicles used in operations under any Franchise Agreement shall be washed at least once every seven (7) calendar days.

(3) "() _____," A local or toll free telephone number, and vehicle number, in letters and figures no less than three inches (3") high, shall be visibly displayed on all motor vehicles used by a Grantee in operations under its Franchise Agreement.

(j) Privacy: Grantee shall strictly observe and protect the rights of privacy of its subscribers. Information identifying individual subscribers or the composition or contents of a subscriber's waste stream shall not be revealed to any Person, governmental unit, private agency, or company, unless as part of a legitimate inquiry by a governmental unit, or as authorized by a court of law or by statute, or upon written authorization of the subscriber. This provision shall not be construed to preclude Grantee from preparing, participating in, or assisting in the preparation of waste characterization studies or waste stream analyses which may be required by AB 939, or the County, provided that no such analysis shall identify any person or connect any person to any particular waste. In addition, Grantee shall not market, sell, convey, or donate to any Person any list with the name or address of subscribers except that Grantee may provide such lists to authorized employees and authorized representatives of the County as necessary to comply with its Franchise Agreement.

(k) Subscriber Complaints:

(1) All subscriber complaints shall be directed to Grantee. Grantee agrees to use its best efforts to resolve all complaints received by mail, by telephone, or in person, by close of business of the second working (waste collection) day following the date on which such complaint is received. Service complaints may be investigated by the Director and Grantee shall provide reasonable cooperation to the Director in the event of such investigation. Grantee shall maintain records listing the date of subscriber complaint, the name, address and telephone number of subscriber, the nature of the complaint or request, and the date when and nature of the action taken by the Grantee to resolve the complaint. All such records shall be maintained for at least seven (7) years after Grantee's receipt of the complaint or inquiry and shall be available for inspection by County during all business hours.

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(2) The Grantee shall designate a "government liaison Person" who shall be responsible for working with the Department to resolve subscriber complaints.

(3) The Grantee shall notify subscribers in writing of the complaint resolution procedure set forth in Section 46.103 at the time subscribers apply for or are provided service, and annually thereafter.

(l) **Property Damage:**

(1) Any physical damage caused by the act or omissions of employees, officers, or agents of the Grantee to private or public property in operations under its Franchise Agreement shall be promptly repaired or replaced by Grantee at Grantee's sole expense.

(2) With respect to driving surfaces, Grantee shall be responsible for damage (excluding normal wear and tear), whether or not paved, resulting from the weight of vehicles providing Solid Waste Handling services on public or private property when it can be demonstrated that such damage is the result of vehicles exceeding speed limits or maximum weight limits set by the State of California or by other negligent operation of vehicles by Grantee's employees.

(m) **Gratuities:** Grantee shall not, nor shall it permit any officer, agent, or employee employed by it, to request, solicit or demand, either directly or indirectly, any gratuity for services authorized or required under its Agreement.

(n) **Unlawful Discrimination:** In performing the Solid Waste Handling services under its Franchise Agreement, and in exercising the rights and privileges granted thereunder, Grantee shall not unlawfully discriminate for or against any Person on the ground of race, sex, age, creed, color, religion or national origin.

(o) **Laws and Licenses:** Grantee shall comply with all federal, state, and County laws, ordinances, rules, and regulations applicable to the performance of the Solid Waste Handling services provided under its Franchise Agreement and shall obtain and maintain in full force and effect all licenses and permits necessary to perform such services throughout the term of its Franchise Agreement.

Adopted Ordinance #3670 (1996);

46.062 Special Collection Programs.

The following minimum special collection programs shall apply to each holder of a Franchise Agreement:

(a) **Semi-Annual Cleanup:** Twice a year, Grantee shall provide a one (1) day cleanup service to all residential unit subscribers on its routes wherein all Bulky Waste left on the curb, or other designated location on or adjacent to subscriber's property, up to a maximum of one and one-half cubic yards, will be removed and disposed of. Cost for this service, excluding the cost of disposal, shall be included within the normal monthly rates chargeable by Grantee as provided in its Franchise Agreement for residential unit Solid Waste Handling. The Bulky Waste will be collected in a vehicle separate from the one used to pick up the residential unit's ordinary Solid Waste so that it can be readily identified as not requiring tipping fees when it arrives at a Solid Waste Facility within the County Solid Waste Disposal System. Grantee will make a good faith effort to divert the Bulky Waste away from any landfill and to another facility where it can be either recycled or refurbished for reuse.

(b) **Bulky Waste Collection:** Grantee shall also provide residential unit subscribers with Bulky Waste pick-up service arranged at the request of the subscriber. Collection of waste materials such as dirt, rock, concrete, and asphalt are not included in or required of

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Grantee for this service. Grantee shall advertise the availability of the Bulky Waste collection service and shall provide the Bulky Waste collection service within seven (7) working (waste collection) days of request by subscriber. Grantee shall bill the subscriber for Bulky Waste collection at the rate established in the Total Rate applicable to its Franchise Agreement. The standard Solid Waste Facility Fee shall be paid by Grantee for disposal of such Bulky Waste.

(c) Rolloff Containers: Upon the direction of the Director, Grantee shall provide, at no additional charge, large rolloff refuse containers requested by the Director to respond to organized community cleanup efforts taking place within Grantee's Franchise Area. Grantee shall deliver containers to agreed-upon collection points and shall cooperate with the Director and community leaders designated by the Director to remove containers and dispose of collected Solid Waste. Grantee is obligated to provide the equivalent of one 40-cubic yard bin/load per year for each 500 residential unit subscribers, or fraction thereof, serviced within the Franchise Area. The County will arrange that there shall be no disposal fees charged for such Solid Waste delivered in separate vehicles to any County Solid Waste Disposal System facility.

Adopted Ordinance #3670 (1996);

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Chapter 7

HAZARDOUS WASTE SCREENING

Sections

- 46.071 Surveillance.
- 46.072 Hazardous Waste Response.

46.071 Surveillance.

(a) Grantee will screen, at the point of collection, all loads of Solid Waste, including without limit loads of Recyclable Material and Green Waste, using appropriate means of inspection to eliminate, where practicable, the transport of Hazardous Wastes. Hazardous Wastes found at the point of collection will not be collected and the generator and the County Hazardous Materials Division of the County Fire Department ("County's Hazardous Materials Division") will be notified of the incident.

(b) Hazardous Waste shall be transported in accordance with the regulations of the Department of California Highway Patrol (Title 13, Code of California Regulations or "CCR"), the regulations of the federal Department of Transportation (DOT)(Title 49, Code of Federal Regulations), the regulations of the U.S. Environmental Protection Agency (Title 40, Code of Federal Regulations), the regulations of the California Occupational Health and Safety Administration (Title 8, CCR), and the regulations of the California Department of Toxic Substances Control (Title 22, CCR). This section shall not be construed to exempt the Grantee from any other applicable law, or from any other regulation unless expressly so provided.

(c) All records, plans and/or other documents kept on file by the Grantee to meet the above mentioned requirements will be made available to the County upon request.

Adopted Ordinance #3670 (1996);

46.072 Hazardous Waste Response.

(a) In the event that any Hazardous Waste or suspected Hazardous Waste is commingled with the Solid Waste stream, the Grantee shall take immediate and appropriate action to contain and isolate the load and contact the County's Hazardous Materials Division. Ongoing training programs will consist of monthly safety meetings for all drivers, mechanics, and other support personnel, including the recognition of Hazardous Waste and hazardous situations that may require assistance from, or notification to, County's Hazardous Materials Division personnel.

(b) The procedure for handling Hazardous Waste will be as follows:

(1) Notification of suspected Hazardous Waste in the waste stream will be communicated from the driver to the Grantee's dispatch center. ("Dispatch")

(2) Dispatch will notify the Grantee's field supervisor to determine appropriate response.

(3) Grantee's field supervisor will determine if it is necessary to notify the County's Hazardous Materials Division and request that they inspect any materials suspected of containing Hazardous Waste. If Grantee's field supervisor is not immediately available, Dispatch shall notify the County's Hazardous Materials Division and request that they inspect the materials suspected of containing Hazardous Waste. A determination will be made by the County's Hazardous Materials Division personnel whether a response team

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from the County's Hazardous Materials Division should be called in to assist in handling the waste. Grantee shall be responsible to pay all applicable fees charged by the County's Hazardous Materials Division (nothing herein shall limit the right of Grantee to seek reimbursement from the generator of the Hazardous Waste).

(4) Coordinating instructions will be issued by personnel from the County's Hazardous Materials Division based on their findings and recommended actions.

(5) Dependent on the determination of County's Hazardous Materials Division personnel, the suspected Hazardous Waste may require segregation and containerizing to prepare for manifesting and transport.

(6) For situations that require specialized equipment or involve extremely large amounts of material, a permitted Hazardous Waste transport company may be contacted to assist in the cleanup. Management of Grantee shall be available during any incidents requiring cleanup to authorize the expenditure of necessary funds, the payment of which shall be the responsibility of Grantee (nothing herein shall limit the right of Grantee to seek reimbursement from the generator of such Hazardous Waste).

(7) The appropriate enforcement actions will be coordinated with the County's Hazardous Materials Division to determine if the generator can be identified.

Adopted Ordinance #3670 (1996);

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Chapter 8

REPORTING REQUIREMENTS, FINANCIAL INFORMATION AND AUDIT RIGHTS

Sections.

- 46.081 General.
- 46.082 Disposal Tonnage Tracking.
- 46.083 Quarterly Reports.
- 46.084 Annual Reports.
- 46.085 Periodic Revenue, Cost and Expense Information.
- 46.086 Audited Financial Statements.
- 46.087 County Audit Rights.

46.081 General.

(a) Each Grantee shall keep, maintain, and furnish copies of such operating records and reports as may be requested by the Department to ascertain compliance with this Division. Such records include, but are not limited to, Grantee's records containing the underlying financial and operational data relating to its basis for, and computation of all costs associated with, providing the services required of it under its Franchise Agreement. The records required to be kept are not limited to the information necessary to provide the required reports. The Department reserves the right to request that additional information be provided to it, as necessary to meet its needs, including but not limited to the AB 939 reporting requirements.

(b) All information required to be kept, maintained or furnished to the County shall be maintained a minimum of seven (7) years after the entry of the most recent item therein;

(c) To the extent relevant to any report, all information included in the reports shall be provided according to the source of generation. Waste generator types are defined as follows:

(1) Residential - Solid Waste, Recyclable Material and Green Waste originating from single-family and from multi-residential units.

(2) Commercial/Industrial - Solid Waste, Recyclable Material and Green Waste from commercial and industrial sources.

(3) Construction/Temporary Bin/Rolloff - All Solid Waste or other materials placed in debris boxes.

(4) Cleanup - Solid Waste and other materials collected through the cleanups specified in Section 46.062(a) and (c).

(d) The Grantee's financial and accounting records required to be maintained under the provisions of this Division shall be maintained on an accrual basis in accordance with the most current edition of Generally Accepted Accounting Principles published by the American Institute of Certified Public Accountants. Unless inconsistent with Generally Accepted Accounting Principles, gross receipts must be recorded as revenues.

(e) Data and information pertaining to services performed under any Franchise Agreement become the property of the County upon submittal to the Department.

Adopted Ordinance #3670 (1996);

46.082 Disposal Tonnage Tracking.

Each month the Grantee shall complete the Multi-Jurisdiction Load Report forms

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provided by the Department and return the corrected information to the Department within ten (10) days of the date of the County's transmittal letter. The Grantee shall:

(a) Correct inaccurate source information collected from the driver of the refuse truck at each landfill.

(b) Amend split source and tonnage information, for Solid Waste loads from more than one community.

Adopted Ordinance #3670 (1996);

46.083. Quarterly Reports.

Except as otherwise directed in writing by the Director, each Grantee shall submit quarterly reports. A quarterly report is required to be submitted no later than thirty (30) days following the completion of the quarter to which it relates. The first report is due by and shall cover the period from the effective date of the Grantee's Franchise Agreement through the end of the quarter in which the Agreement first became operative. The quarterly reports shall include the information collected and summarized on a monthly basis. Specifically, Grantee shall provide the following quarterly reports:

(a) The Grantee shall provide a report that lists the quantity of solid waste collected by month and the number of accounts serviced monthly ("Collection information reports"). The quantities of Solid Waste, Recyclable Materials and Green Waste collected shall be reported in terms of tonnage (or cubic yards if tonnage information is not available). The Department may, at its discretion, also require reporting by volume. The Grantee shall clearly specify any assumptions, such as density factors, made in reporting the tonnage or cubic yard information.

(b) The Grantee shall provide a report summarizing the entries made in the service log including all commendations, complaints, and notifications of missed pickups, and the Grantee responses thereto ("Service performance report"). The summary report shall identify the total number of all written or oral subscriber comments and shall provide the number of comments received in the following categories: commendations, litter or property damage complaints, misplacement of containers, stolen containers, personnel complaints, missed pickups, and other.

(c) The Grantee shall submit a report summarizing the problems or barriers to implementation of services for the quarter ("Program implementation"). The report shall address how the problems and barriers were overcome or the proposed resolutions and schedule for correcting the problem.

(d) The Grantee shall submit a report summarizing the information relating to Gross Receipts, Gross Receipts Less Disposal Charges and service charge collections. To the extent permitted by applicable law, financial information submitted to the County by the Grantee pursuant to this subsection will be kept confidential and will be available to County personnel only on a need-to-know basis.

Adopted Ordinance #3670 (1996);

46.084. Annual Reports.

The Grantee shall submit reports to the Department, covering operations for each calendar year. Except as otherwise provided below, each such report shall be submitted to the Department no later than March 1 of the following year. The Grantee will be responsible for providing the following reports:

REPORTING REQUIREMENTS, FINANCIAL INFORMATION AND AUDIT RIGHTS

(a) The Grantee shall provide a summary of information contained in the quarterly reports required to be provided quarterly pursuant to Sections 46.083(a) and (c) ("Summary reports"). The Summary reports shall clearly indicate the diversion rate for each waste generation type. The diversion information provided shall include quantities of materials collected, and if processed by other than County Solid Waste Disposal System facilities, the quantities recycled and composted in tons (or cubic yards if tonnage information is not available) for each waste generator type. In the Summary report, the Grantee shall note unusual changes in disposal quantities and indicate potential reason(s) for this change. The Summary report shall include a discussion of noteworthy experiences, and any problems in program operation and how they were resolved.

(b) The Grantee shall provide a complete inventory of collection equipment and other major equipment which is or may be used in its operations ("Equipment inventory report").

(c) The Grantee shall prepare a report that identifies all future programs and facilities that may be needed but have not been planned for ("Future programs report").

(d) The Grantee shall submit declarations of the current status of all pending criminal or civil litigation against the Grantee and its parent company, if any, and all other subsidiaries of such parent company that may have an effect on the Grantee's ability to meet the obligations of its Agreement or provide a satisfactory level of service ("Litigation information report").

(e) Within 120 days following the close of Grantee's fiscal year, Grantee shall furnish a summary of the reports required to be provided quarterly pursuant to Section 46.083(d). The summary must be reviewed by the Grantee's independent Certified Public Accountant, in accordance with the standards of the accounting industry, and include the appropriate statement from said Accountant relative to his or her review.

(f) Within 120 days following the close of Grantee's fiscal year, Grantee shall organize, summarize and make available for review full and complete financial information, consistent with the preparation of the Grantee's financial statements, with respect to the operations necessary to provide the services required under its Franchise Agreement, including revenues, costs and expenses. Such information is not required to be certified by an independent Certified Public Accountant. The Grantee shall make the financial information available for the review by the Department, or its designee, at the local office of Grantee.

Adopted Ordinance #3670 (1996); Amended Ordinance #3673 (1996);

46.085 Periodic Revenue, Cost and Expense Information.

As soon as possible in advance of the negotiations on a proposed Franchise Agreement, and again at least three months prior to the date that a decision would be made under Section 46.031(d)(2) regarding the denial of an extension of the term of a Franchise Agreement, Grantee shall organize, summarize and make available for review full and complete financial information, consistent with the preparation of the Grantee's financial statements, with respect to the operations necessary to provide the services required under its Franchise Agreement, including revenues, costs and expenses. Such information is required to be certified by an independent Certified Public Accountant. The Grantee shall make the financial information available for the review by the Department, or its designee, at the local office of Grantee. Notwithstanding the forgoing, if Grantee and any company which is within a "controlled group of corporations" with Grantee (within

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the meaning of 26 U.S.C. Section 1563) have, in the aggregate, 15 or fewer full time employees; and Grantee petitions the Director that the cost of required certification would pose an undue hardship; the Director may waive the certification requirement and may, at Department expense, engage a Certified Public Account of his/her choice to conduct the necessary certification.

Adopted Ordinance #3670 (1996); Amended Ordinance #3673 (1996);

46.086 Audited Financial Statements.

Upon 120 days advance written notice by the Department, Grantee shall cause an audited financial statement to be prepared, and made available for review, for its most recently completed fiscal year, together with the related opinion of the Independent Certified Public Accountant who certified such audited financial statement. The Grantee shall make the audited financial statement and related opinion available for the review by the Department, or its designee, at the local office of Grantee. If Grantee is a subsidiary of another corporation, Grantee shall provide the audited financial statement of such parent corporation and need only provide a copy of the financial statement of Grantee utilized in the preparation of the audited financial statement of the parent corporation. Notwithstanding, the forgoing, if Grantee and any company which is within a "controlled group of corporations" with Grantee (within the meaning of 26 U.S.C. Section 1563) have, in the aggregate, 15 or fewer full time employees; and Grantee petitions the Director that the cost of an audited financial statement would pose an undue hardship; then Director may waive the requirement to provide an audited financial statement and may, at Department expense, engage an auditor of his/her choice to conduct a financial audit.

Adopted Ordinance #3670 (1996); Amended Ordinance #3673 (1996);

46.087 County Right of Audit.

Grantee shall make its subscriber base and business, operational and financial records available to the Department, or its designee, for audit at reasonable times for purposes relevant to review of performance and rate adjustment issues relevant to the Grantee's Franchise Agreement. In the event an audit is undertaken and shows that the Franchise Fee paid by Grantee to the County (relative to any period of time in excess of three months) has been understated by at least \$50,000 or two percent (2%), whichever is less, then Grantee shall reimburse County for the cost of such audit and shall, in addition, pay the County the amount of the understated Franchise Fee, plus simple interest on such understated amount at the rate of ten percent (10%) per annum from the date originally due until paid.

Adopted Ordinance #3670 (1996);

INDEMNIFICATIONS, INSURANCE AND BONDING

Chapter 9

INDEMNIFICATIONS, INSURANCE AND BONDING

Sections.

- 46.091 Indemnification of County.
- 46.092 Hazardous Waste Indemnification.
- 46.093 Minimum Diversion Requirements.
- 46.094 AB 939 Indemnification.
- 46.095 Insurance Requirements.
- 46.096 Performance Bonds or Other Security.
- 46.097 Liquidated Damages Deposit.
- 46.098 Modification.

46.091 Indemnification of County.

Separate and distinct from the insurance provisions required by this Division, each Grantee shall appear and defend (with counsel approved by County) all actions against the Department and the County, and the Grantee agrees to defend, indemnify, and hold the County and/or its officers, agents, volunteers and employees harmless from and against, any and all claims and demands, causes of action of every kind and description, damages, liabilities, costs or expenses for any damages or injuries to any person or property, including, but not limited to, injury to Grantee's officers, agents, or employees which arise directly or indirectly from or are connected with or are caused or claimed to be caused by acts, errors or omissions of Grantee, or its officers, agents, or employees, in exercising its rights or in performing its duties under its Franchise Agreement or under this Division, and all costs and expenses of investigating and defending against same; except to the extent such indemnification is prohibited by law.

Adopted Ordinance #3670 (1996);

46.092 Hazardous Waste Indemnification.

Without limiting the generality of the foregoing, if Grantee has negligently or willfully acted or failed to act with respect to the collection, handling or transportation of Hazardous Waste, Grantee shall indemnify, defend with counsel approved by County, protect and hold harmless the County and its respective officers, employees, agents, volunteers, assigns, and any successor or successors harmless from and against all claims, actual damages (including, but not limited to, special and consequential damages), natural resources damage, punitive damages, injuries, costs, response remediation and removal costs, losses, demands, debts, liens, liabilities, causes of action, suits, legal or administrative proceedings, interest, fines, charges, penalties, and expenses (including, but not limited to, attorneys' and expert witness fees and costs incurred in connection with defending against any of the foregoing or in enforcing this indemnity) of any kind whatsoever paid, incurred or suffered by, or asserted against, County or its respective officers, employees, agents, or Grantees arising from or attributable to any repair, cleanup or detoxification, or preparation and implementation of any removal, remedial response, closure or other plan (regardless of whether undertaken due to governmental action) concerning any Hazardous Waste which Grantee has negligently or willfully acted or failed to act with respect to its collection, handling or

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transportation at any place where Grantee stores, handles, transports or disposes of Solid Waste pursuant to its Franchise Agreement. The foregoing indemnity is intended to operate and shall operate as an Agreement pursuant to Section 107(e) of the Comprehensive Environmental Response, Compensation and Liability Act, "CERCLA", 42 U.S.C. Section 9607(e) and California Health and Safety Code Section 25364, to insure, protect, indemnify, and hold the County harmless from liability.

Adopted Ordinance #3670 (1996);

46.093 Minimum Diversion Requirements.

(a) The percentage of all materials collected by Grantee to be recycled, processed and/or marketed by Grantee in a manner which entitles County to diversion credit as specified in Public Resources Code Section 41780, measured on a calendar year basis, ("Minimum Diversion Requirement") shall be established by agreement between the Grantee and the County as part of the process of negotiating a Franchise Agreement. The specific program and manner of reimbursement of the Grantee, including the sharing of recycling material receipts, if any, shall be determined as a part of the Franchise Agreement. Within sixty (60) days after the end of each calendar year during the term of its Franchise Agreement, Grantee shall pay County as liquidated damages for failing to meet this requirement the per ton liquidated damages set forth in its Franchise Agreement, for each ton which was not diverted, which if it had been diverted would have enabled Grantee to meet the Minimum Diversion Requirement.

(b) If Grantee fails to meet the annual Minimum Diversion Requirements more than three (3) times, during any consecutive 7 years of the term of its Franchise Agreement, County may terminate its Franchise Agreement upon one hundred twenty (120) days advance written notice.

(c) If recycling is being performed by waste generators and others to the extent that Grantee is unable to meet its Minimum Diversion Requirement, Grantee shall report such circumstances to the Director in writing and petition the Director for an equitable adjustment of Grantee's Minimum Diversion Requirement based on such circumstances, which adjustment shall not be unreasonably denied.

(d) If the County finds that additional programs are necessary to meet any AB 939 required diversion goals the County may require Grantee to provide proposals for additional diversion programs to meet the diversion requirements. Compensation for such additional programs shall be established under the terms of this Division as a Change in Service Level Adjustment.

Adopted Ordinance #3670 (1996);

46.094 Diversion Indemnification.

(a) Grantee agrees, on a pro rata basis (with such basis being determined as set forth below), to protect and defend County with counsel selected by Grantee and approved by County, which approval shall not be unreasonably withheld, and to indemnify and hold the County harmless from and against all fines or penalties imposed by the California Integrated Waste Management Board on account of AB 939 diversion goals, specified in California Public Resources Code Section 41780, not being met by County, if such diversion goals are not met as the result of acts or omissions of Grantee or failure by Grantee to implement in good faith all diversion programs required or approved by the

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County or as a result of Grantee's failure to provide County with necessary data reasonably available to Grantee regarding attainment of diversion goals.

(b) Except where the Grantee's liability under this Section arises because of a failure to provide County with necessary data, the pro rata basis of Grantee's indemnification under this Section shall be determined by comparing the amount of waste by which the Grantee failed to meet its Minimum Diversion Requirement to the total amount of waste by which all Grantees in all Franchise Areas, if any, failed to meet their respective Minimum Diversion Requirement. Where the Grantee's liability arises because of a failure to provide County with necessary data, the pro rata basis of Grantee's indemnification under this Section shall be determined by comparing the amount of Solid Waste collected in Grantee's Franchise Area to the amount of Solid Waste collected in all Franchise Areas, if any, where any Grantee has incurred liability under this Section for any reason.

(c) Liquidated damages paid for failing to meet the Minimum Diversion Requirement in accordance with the provisions of Section 46.093 shall be credited toward the Grantee's satisfaction of the indemnification set forth in this Section.

Adopted Ordinance #3670 (1996);

46.095 Insurance Requirements.

In order to accomplish the indemnifications provided above, but without limiting the duty, each Grantee shall secure and maintain at its sole cost throughout the term of its respective Franchise Agreement the following types of insurance issued by companies acceptable to the County's Risk Manager with limits as may be reasonably prescribed by the County's Risk Manager as a reflection of the County's risk in respect to operations under a particular Franchise Agreement:

(a) Workers' Compensation in an amount and form to meet all applicable requirements of the Labor Code of the State of California, including Employer's Liability covering all persons providing services under the Franchise Agreement.

(b) Comprehensive General and Automobile Liability Insurance, including contractual coverage and automobile liability coverage for owned, hired and non-owned vehicles with combined single limits for bodily injury, death and property damage.

(c) All required insurance policies, except for the Workers' Compensation coverage, shall contain endorsements naming the County, and its employees, agents, volunteers and officers as additional named insureds with respect to liabilities arising out of operating under the Franchise Agreement.

(d) The Grantee shall require the carriers of the above required insurance coverage to waive all rights of subrogation against the County, its officers, volunteers, employees, contractors and subcontractors.

(e) All policies required by this Section must be primary and non-contributory with any insurance or self-insurance programs carried or administered by the County.

(f) Prior to commencing operations under a Franchise Agreement, Grantee shall furnish to the Department certificates of insurance evidencing the insurance coverage required above. Each such certificate shall provide that the insurance coverage evidenced thereby shall not be expired, canceled, terminated or reduced in amount without at least thirty (30) days advance written notice to the Department. Within sixty (60) days after the effective date of a Franchise Agreement, the Grantee shall furnish to the Department certified copies of all of the policies and endorsements required by this

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Section. Proofs of renewal or of substitution of carriers shall be provided to the Department promptly as such events occur.

(g) All insurance requirements are subject to annual review by the County, with the results of such review to be provided to a Grantee on or before the anniversary of the effective date of its Franchise Agreement. If the County's Risk Manager determines at any annual review that heretofore unreasonably priced or unavailable types of insurance coverage or coverage limits become reasonably priced or available, the County's Risk Manager is authorized, but not required, to change the above insurance requirements to require additional types of insurance coverage or higher coverage limits, provided that any such change is reasonable in light of past claims against the County, inflation, or any other item reasonably related to the County's risk. Any such change shall be treated as a Change in Law Adjustment, under the provisions of this Division.

(h) Grantee shall not be required to maintain separate policies of insurance for any type of insurance required under both this Section and Chapter 8 of Division 3 of Title 3 of this Code. However, Grantee must maintain the level of insurance which is the higher of that required in this Section and Chapter 8 of Division 3 of Title 3 of this Code, and must obtain and maintain insurance coverage which satisfies all of the provisions of this Section and Chapter 8 of Division 3 of Title 3 of this Code, including without limit, providing certificates of insurance to all specified departments of the County and requiring notification of the cancellation or termination of any insurance policy be given by the insurance company to all specified departments of the County.

Adopted Ordinance #3670 (1996);

46.096 Performance Bonds or Other Security.

Grantee shall furnish to the County without additional charge a corporate surety bond, a letter of credit or other security device acceptable to the Department, as security for performance under its Franchise Agreement (collectively "Security"). The amount of the Security shall be the average of one month's expected Gross Receipts Less Disposal Charge. Adequate proof of the existence of the Security shall be provided (e.g., a certificate from the surety showing that the bond premiums have been paid in full shall accompany the bond and each renewal thereof). The surety on the bond, the bank on which the letter of credit is drawn and the surety for any other Security device shall be a company acceptable to the County and shall be authorized to do business in the State of California.

Adopted Ordinance #3670 (1996);

46.097 Liquidated Damages Deposit.

Each Grantee shall be required to maintain a bank account from which the Department will have the ability to remove, on the sole signature of the Director, sums of money equal to any liquidated damages assessed against Grantee under the provisions of Section 46.102. Grantee shall be required to maintain a minimum balance of \$2,500 in the account; the Grantee must restore the account to such minimum balance within 10 days after the mailing of any monthly statement from the bank showing, or written notice from the Department stating, that the balance of the account has fallen below the \$2,500 required minimum. The sums on account shall belong to Grantee and all interest on said account belongs to, and all costs related to such

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account shall be the responsibility of, Grantee. To the extent possible, Grantee shall require the bank to provide a copy of a monthly account statement to the Department; in the event that the bank is unwilling to provide such a statement, Grantee shall provide a true and complete copy of its monthly account statement to the Department within 5 working (waste collection) days of its receipt by the Grantee.

Adopted Ordinance #3670 (1996);

46.098 Modification.

The requirements of this Chapter may be modified or waived in writing by the Board upon the request of Grantee, provided the Board reasonably determines such modification or waiver is in the best interest of County and of the public welfare, considering all relevant factors, including acceptable financial guarantees provided by Grantee or by a parent company of Grantee.

Adopted Ordinance #3670 (1996);

ADMINISTRATION, ENFORCEMENT AND REMEDIES

Chapter 10

ADMINISTRATION, ENFORCEMENT AND REMEDIES

Sections:

- 46.101 Administration, Enforcement and Remedies.
- 46.102 Liquidated Damages.
- 46.103 Resolution of Subscriber Complaints.
- 46.104 Notices.

46.101 Administration, Enforcement and Remedies.

(a) If the Director determines at any time that the Grantee's performance of the Solid Waste Handling services authorized/required in its Franchise Agreement, or any of its other actions, are not in conformity with the provisions of the Franchise Agreement, the provisions of this Code, the requirements of the California Integrated Waste Management Board, including but not limited to, requirements for source reduction and recycling (as to the waste stream subject to the Franchise Agreement) or any other applicable federal, state, or local law or regulation, including but not limited to the laws governing collection, transfer, storage and/or disposal of Solid Waste, the Director will notify Grantee in writing of such deficiencies ("Notice of Deficiency").

Without limiting the generality of the forgoing the County may provide a Notice of Deficiency for any of the following:

(1) If the Grantee practices, or attempts to practice, or if it is determined by the Department that the Grantee has heretofore practiced, any fraud or deceit upon the County or upon any member of the public, including any subscriber of the Grantee;

(2) If the Grantee becomes insolvent, unable or unwilling to pay its debts, or upon listing on an order in a bankruptcy proceeding for relief related to operations pursuant to this Division in favor of Grantee and acting to the detriment of County or of a subscriber of the Grantee;

(3) If the Grantee fails to provide or maintain in full force and effect the indemnifications, insurance, performance bonds or other Security, bank account or any other item required by Chapter 9 of this Division;

(4) If the Grantee willfully violates any orders or rulings of any regulatory body having jurisdiction over the Grantee in the operation of its business under this Division;

(5) If the Grantee ceases or fails to provide Solid Waste Handling services as required under its Franchise Agreement to a substantial number of subscribers within its Franchise Area or over all, or a substantial portion of, its Franchise Area, for a period of seven (7) days or more, for any cause which was reasonably within the ability of the Grantee to have prevented or overcome, and where such cessation or failure is not authorized by the provisions of this Division or of the applicable Franchise Agreement. As used in this provision, a "substantial number of subscribers" can be as few as one if the Grantee's cessation or failure to provide Solid Waste Handling services creates or tends to create a threat to public health or safety;

(6) If the Grantee willfully fails to make any payments required under this Division or its Franchise Agreement and/or refuses to provide the County with requested information, manifests, reports, and/or test results in a timely manner as provided in this Division or its Franchise Agreement;

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(7) Any other act or omission by the Grantee which violates the terms, warranties, conditions, or requirements of its Franchise Agreement, or of this Division, as it may be amended from time to time, or of any order, directive, rule, or regulation issued by a regulatory agency;

(8) If the Grantee willfully and persistently, and without the consent of the Director, fails to deliver the Solid Waste to the Solid Waste Facility specified in its Franchise Agreement, if any; and

(9) If there is any felony conviction for a violation of any federal or state law relating to: bribery of public officials or other acts of public corruption; fraud; anti-trust; or unfair trade practices, including predatory pricing:

(A) of any employee of Grantee, where such felony conviction relates to actions taken by such employee in respect to Grantee's Franchise Agreement; or

(B) of the Chief Executive Officer, Chief Operating Officer or Chief Financial officer of Grantee.

(b) The Notice of Deficiency may provide a reasonable time within which correction of all noted deficiencies is to be made. Unless a shorter or longer period of time is specified in the notice of deficiency sent by the Director, a reasonable time for correction shall be sixty (60) days from the receipt by the Grantee of such written notice. If the Grantee cannot reasonably correct or remedy a noted deficiency within the time specified in the Notice of Deficiency, but the Grantee immediately commences to correct or remedy such deficiency within the time set forth in the Notice of Deficiency and diligently pursues such correction or remedy thereafter Grantee shall not be deemed to have failed to correct or remedy the Notice of Deficiency. Some deficiencies are by their nature not curable, and no time period to correct or remedy such deficiency shall be given in the Notice of Deficiency (by way of example but not limitation, the deficiencies noted in Sections 46.101(a)(1), (2), (3) or (5) generally are not curable).

(c) The Director shall review the Grantee's response to the Notice of Deficiency. If the Director determines that the Grantee has not cured the deficiency, or if there is no cure period provided in the Notice of Deficiency given the nature of the deficiency, the Director shall either:

(1) Refer the matter directly to the Board for decision pursuant to subsection (d) of this Section; or

(2) Decide the matter and notify the Grantee of that decision, in writing.

(A) The decision of the Director may be to terminate the Franchise Agreement or may be to impose some lesser sanction;

(B) The decision of the Director shall be final and binding on Grantee unless the Grantee files a "Notice of Appeal" with the Director within thirty (30) days of receipt of the Director's decision. The Notice of Appeal shall be in writing, shall contain a detailed and precise statement of the basis for the appeal, and shall be accompanied by the fee, if any, which is applicable to the filing of such an appeal.

(C) Within ten (10) working days of receipt of a Notice of Appeal, the Director shall either refer the appeal to the Board for proceedings in accordance with subsection (d) of this Section, or refer the matter to a hearing officer for proceedings pursuant to Chapter 27 of Division 2 of Title 1 of this Code.

(d) (1) Should the Director refer the Notice of Deficiency to the Board in the first instance, or if the matter reaches the Board pursuant to a Notice of Appeal, the Board shall either:

(A) Refer the matter to a hearing officer for proceedings pursuant to Chapter

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27 of Division 2 of Title 1 of this Code; or

(B) Set the matter for hearing.

(2) If the Board sets the matter for hearing:

(A) The Board shall give Grantee, and any interested person requesting the same, fourteen (14) days written notice of the time and place of the hearing. At the hearing, the Board shall consider the report of the Director indicating the deficiencies, and shall give the Grantee, or its representatives and any other interested person, a reasonable opportunity to be heard.

(B) Based on the evidence presented at the public hearing, the Board shall decide the appropriate action to be taken. If, based upon the record, the Board determines that as noted in the Notice of Deficiency the Grantee's performance of the Solid Waste Handling services authorized/required in its Franchise Agreement, or any of its other actions, are not in conformity with the provisions of the Franchise Agreement, the provisions of this Code, the requirements of the California Integrated Waste Management Board, including but not limited to, requirements for source reduction and recycling (as to the waste stream subject to the Franchise Agreement) or any other applicable federal, state, or local law or regulation, including but not limited to the laws governing collection, transfer, storage and/or disposal of Solid Waste, then the Board, in the exercise of its sole discretion, may terminate the Franchise Agreement forthwith or impose such lesser sanction as it deems appropriate. The decision of the Board shall be final and conclusive.

(e) Grantee's performance under its Franchise Agreement is not excused during the period of time prior to the Director's or the Board's final determination, as the case may be, regarding the validity of, and appropriate response to, the deficiencies noted in the Notice of Deficiency.

(f) In the event Grantee: (i) has received a Notice of Deficiency and fails to perform Solid Waste Handling services; or (ii) has had its Franchise Agreement terminated; the County, acting through the Department, reserves the right, in addition to all other rights available to the County, to take any one or combination of the following actions:

(1) To rent or lease from Grantee, at its respective fair and reasonable rental value, all or any part of the Grantee's equipment (including collection containers utilized by subscribers and office equipment and billing programs), equipment yard and office utilized by Grantee in providing the Solid Waste Handling services required under its Franchise Agreement. The County may rent or lease such equipment and real estate for a period not to exceed six (6) months, for the purpose of performing the Solid Waste Handling services, or any part thereof, which Grantee is (or was) obligated to provide pursuant to its Franchise Agreement. The County may use said rented equipment and real estate to directly perform such Solid Waste Handling service or to assign it to some other Grantee or Person to act on the County's behalf. Grantee shall be held responsible for the costs to insure the County or its assignee from all liability resulting from the operation of Grantee's equipment. In the case of equipment or real estate not owned by Grantee, Grantee shall assign to the County, to the extent Grantee is permitted to do so under the instruments pursuant to which Grantee possesses such equipment or real estate, the right to possess the equipment or real estate.

(2) As used in this subsection, "reasonable rental value" means the rate for such equipment as listed in the State Department of Transportation publication, "Labor Surcharge and Equipment Rental Rates," in effect at the time the County leases the equipment. If a particular piece of equipment is not listed in said publication or if said

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publication is not current, the reasonable rental value may be established by the Director by any equitable alternative method. For real estate, the "reasonable rental value" means its market rental rate as established by the Director using an equitable method.

(3) If the County exercises its rights under this subsection, the County shall pay or owe Grantee the reasonable rental value of the equipment and real estate so taken for the period of the County's possession thereof. The County may offset any amounts due to Grantee pursuant to this provision against any amounts due to County from Grantee.

(4) All revenues owed by subscribers which are attributable to services performed by or at the direction of the County during County's assumption of Grantee's Solid Waste Handling duties shall be billed by and paid to the County. To the extent Grantee receives such revenue after County's assumption of Grantee's Solid Waste Handling duties, Grantee shall pay such revenue to County promptly after receipt thereof (or promptly after County has performed the services related to such revenue, if the revenue was received by the Grantee prior to the County's assumption of duties) and Grantee shall be deemed to have assigned to County all of Grantee's right and interest to any such revenues.

(g) The County rights set forth in this Section are in addition to, and not in limitation of, any other powers or rights available to the County upon failure of Grantee to perform its obligations under this Division or its Franchise Agreement. Further, by entering into its Franchise Agreement issued pursuant to this Division each Grantee acknowledges that its violation of the terms of this Division or its breach of the terms of its Franchise Agreement shall cause the County to suffer irreparable injury and damages sufficient to support injunctive relief to enforce the provisions of the Franchise Agreement, and to enjoin the breach thereof.

(h) This Section shall not apply to violations or deficiencies which fall within the sole jurisdiction of the County's Department of Public Health, Division of Environmental Health Services under Grantee's required Health and Safety Permit and which are not, and do not become, violations or deficiencies under this Division.

Adopted Ordinance #3670 (1996);

46.102 Liquidated Damages.

(a) In its quarterly report submitted to the Department in accordance with Section 46.083(b), Grantee shall certify to Department that it has met its service obligations during such quarter. If Grantee cannot so certify, if its complaint record evidences, or if the Department notifies Grantee that it has failed to meet any of its service obligations, then Grantee shall pay the indicated liquidated damages for each of the following violations/breaches which have been verified to the satisfaction of the Department:

(1) Failure to Correct Missed Service; failure to correct a missed collection in accordance with Section 46.061(f); Escalated Damages;

(2) Failure to Timely Commence Services; failure to commence service within seven (7) working (waste collection) days of subscriber's request therefore in accordance with Section 46.061(e); Escalated Damages;

(3) Discourtesy or Requesting a Gratuity; discourteous behavior, or requesting a gratuity, by Grantee's employees reported by or complained of by subscribers to

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Grantee or Department in noncompliance with Sections 46.061(a)(3) and (m); Escalated Damages;

(4) Damage to Subscriber's Property; demonstrated damage reported by or complained of by subscriber to Grantee in accordance with Section 46.061(l), not fixed promptly upon such report or complaint; \$250;

(5) Collection Outside Permitted Hours; providing service outside hours authorized in accordance with Section 46.061(b); Escalated Damages;

(6) Failure to Timely Respond to Complaint; failure to timely respond to any complaint and correct related violations/breach in services in accordance with Section 46.061(k); \$100;

(7) Failure to Record Complaint; failure to record a complaint in accordance with Section 46.061(k); \$100;

(8) Failure to Make Records of Complaints Available to Department; failure to provide Department immediate access to records of complaints in accordance with Section 46.061(k); \$1000;

(9) Failure to Submit Reports to Department; failure to timely submit complete reports to the Department in accordance with Section 46.061(d) and Chapter 8 of this Division; \$1000.

(b) At any time following the time when any of the forgoing violations/breaches have been verified to the satisfaction of the Department, the Department may remove an amount equal to the indicated liquidated damages from the \$2,500 bank deposit for liquidated damages which is required to be maintained by Grantee pursuant to Section 46.097. The Department shall provide written notice to the Grantee that it is satisfied that a violation/breach has occurred and that it has imposed and removed, or will remove, the indicated liquidated damages from the \$2,500 bank account of Grantee. Within ten (10) days of receiving such notice from the Department, Grantee may contest imposition of such liquidated damages by notice to the Department, indicating the basis for disagreement. Any dispute relating thereto shall be resolved under the Notice of Appeal provisions of Section 46.101. In the event Grantee owes the County any liquidated damages upon the termination of its Franchise Agreement, Grantee's liability shall survive the termination thereof.

(c) A high level of collection service quality and subscriber satisfaction and therefore consistent and reliable service, is of utmost importance to the County and the Solid Waste Handling services subscriber. County will have considered and relied on Grantee's representations as to its quality of service commitment in approving any Franchise Agreement, and any violation/breach by Grantee of its Solid Waste Handling service obligations referenced in this Section represents a loss of bargain to the County. The Grantee further acknowledges that quantified standards of performance are necessary and appropriate to ensure such consistent and reliable collection service, and if Grantee fails to meet service obligations referenced in this Section, County will suffer damages (including its subscribers' inconvenience; complaints by subscribers; lost Board and staff time; and loss of bargain) and that it is and will be impracticable and extremely difficult to ascertain and determine the value thereof. Therefore, the County and Grantee acknowledge that the above liquidated damages represent a reasonable estimate of the amount of such damages, considering all of the circumstances, including the relationship of the amount of the liquidated damages to the range of harm to County that reasonably could be anticipated and the anticipation that proof of actual damages would be extremely costly and inconvenient for both the Grantee and County. In

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entering into its Franchise Agreement the Grantee specifically affirms the accuracy of the statements made above and the fact that Grantee has had ample opportunity to consult with legal counsel and obtain an explanation of this liquidated damage provision.

(d) The rights of the County set forth in this Section are in addition to, and not a limitation on, any other rights which County may have against Grantee for the failure to observe any condition or term of this Division and/or its Franchise Agreement, including the violations/breaches of same set forth in this Section for which liquidated damages are provided.

Adopted Ordinance #3670 (1996);

46.103 Resolution of Subscriber Complaints

Procedures for resolution of complaints and other disputes shall be as follows:

(a) A subscriber dissatisfied with Grantee's decision regarding a complaint may ask the Director to review the complaint. To obtain this review, the subscriber may request County review within thirty (30) days of receipt of Grantee's response to the Complaint, or within forty-five (45) days of submitting the complaint to the Grantee, if the Grantee has failed to respond to the complaint. The Director may extend the time to request the County's review for good cause.

(b) Before reviewing the complaint, the Director shall refer it to the Grantee. If the Grantee fails to cure the complaint within ten (10) days after such referral, the Director shall review the complaint and determine if further action is warranted. The Director may request written statements from the Grantee and subscriber, or oral presentations or both written and oral presentations.

(c) The Director shall determine if the subscriber's complaint is justified, and if so, what remedy, if any, shall be applied. The remedy provided to the subscriber under this Section shall be limited to a refund of subscriber charges related to the period of violation of any of the terms of this Division or of the breach of any term of the applicable Franchise Agreement. In addition to any other remedy of County contained in this , County may impose liquidated damages of up to one hundred dollars (\$100.00) payable to the County for any single event or series of related events, or actual damages as demonstrated during the resolution procedure.

(d) The Director may delegate the duties under this Section to a designee. The decision of the Director or a designee shall be final on any matter of five thousand dollars (\$5,000.00) or less. In the event of a decision on a matter awarding more than five thousand dollars (\$5,000.00), Grantee may seek review pursuant to the Notice of Appeal procedure contained in Section 46.101.

(e) This Section shall not apply to disputes involving the implementation of the Total Rate approved by the Board or the adjustments thereto specifically authorized by this Division.

Adopted Ordinance #3670 (1996);

46.104 Notices.

Except as otherwise required by governing law, any notice, information, request or reply ("Notice") required or permitted to be given under the provisions of this Division shall be in writing and shall be given or served either personally or by mail. If given or served by mail, such Notice shall be deemed sufficiently given if: (1) (i) deposited in the United States mail, certified mail, return receipt requested, postage prepaid, or (ii) sent

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by express mail, Federal Express, or other similar overnight service, provided proof of service is available; and (2) addressed to (i) the Grantee at its most recent address of record with the Department or (ii) to the Director at the then-current address of the Department, as the case may be.

Adopted Ordinance #3670 (1996);

PENALTIES FOR VIOLATION

Chapter 11

PENALTIES FOR VIOLATION

Sections:

Section 46.111 Penalties for Violation.

Section 46.111 Penalties for Violation.

Any violation of provisions of this Division, including without limit providing Solid Waste Handling services (including where required those specified in Section (46.022(b)) in a Franchise Area without a Franchise Agreement which authorizes the Person to perform such services, shall constitute an infraction and, upon conviction thereof, such Person shall be subject to a fine of One Hundred Dollars (\$100.00) for the first offense; Two Hundred Dollars (\$200.00) for a second such violation within a one (1) year period and Four Hundred Dollars (\$400.00) for a third such violation within a one (1) year period. The fourth and additional such violations by any one Person within a one (1) year period shall each constitute a misdemeanor and upon conviction thereof, such Person shall be punishable by a fine of not more than One Thousand Dollars (\$1,000.00) or by imprisonment of not more than six (6) months in the County jail, or by both such fine and imprisonment. Payment of any penalty herein provided shall not relieve the violator or other Person from the responsibility of correcting the violation. Such Person shall be deemed guilty of a separate offense for each and every day during any portion of which any violation of this Division is committed, constituted or permitted by such Person and shall be punishable as herein provided.

In addition, any Person convicted of violating this Division may be held liable by a court for reimbursement to the County for all or part of the costs incurred in the investigation, analysis, inspection, abatement and prosecution of the action against the guilty Person.

Adopted Ordinance #3670 (1996);

GENERAL PROVISIONS

Chapter 12

SEVERABILITY AND AMENDMENT

Sections:

46.121 Severability.

46.122 Amendment.

46.121 Severability.

If any part or provision of this Division, or application thereof, to any person or circumstance is held invalid, the remainder of this Division, including the application of such part or provision to other persons or circumstances shall not be affected thereby and shall continue in full force and effect. To this end, the provisions of this Division are severable.

Adopted Ordinance #3670 (1996);

46.122 Amendment.

The County retains the right to amend this Division in any respect, notwithstanding the existence of one or more Franchise Agreements. Until the commencement date of any extended term of a Franchise Agreement, including its extension pursuant to the terms of Section 46.031(d) of this Code, the Grantee shall be subject to and bound by the terms of this Division as same exists on the date of the granting of its Franchise Agreement by the County. Each Grantee shall be subject to and bound by the terms of this Division, as amended, upon the commencement date of any extension of the term of the Franchise Agreement of the Grantee, including its extension pursuant to the terms of Section 46.031(d) of this Code. The amendments to this Division to which a Grantee shall be subject upon the commencement date of its Franchise Agreement or of the extension of its Franchise Agreement shall be those amendments which have been adopted by the Board (whether or not the amendment is effective) prior to the following date, as applicable: (i) the date the Board acts to grant Grantee its Franchise Agreement; (ii) the date by which the Board is required to determine that the Grantee's Franchise Agreement shall not be extended, as provided in Section 46.031(d) of this Code, in the event that the Franchise Agreement is extended pursuant to the terms of Section 46.031(d) of this Code; or (iii) the date the Board acts to extend the term of Grantee's Franchise Agreement, if the Agreement is extended other than pursuant to the provisions of Section 46.031(d) of this Code.

Adopted Ordinance #3670 (1996); Amended Ordinance #3697 (1997);